THE TEN COMMANDMENTS AND THE CONSTITUTION
DENNIS TEITI

the weekly Standard

JULY 21, 1997 $2.95

The Politics of Summer

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Chester E. Finn Jr. is sorry he ever liked national testing

Fred Barnes takes apart Bill Clinton's tax tricks

Alan Ehrenhalt advises pols to stop futzing with human nature

The Editors want to make NATO a lot bigger

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The Oracle of Kemp

During the heated months of debate on most-favored-nation trading status for China, many politicians tried to assure the anti-China lobby that while they were against revoking MFN, they really did want to get tough on Chinese misbehavior in other ways. The sincerity of that claim was called into question last week when the Senate defeated an amendment to the defense authorization bill.

The amendment would have required American companies to obtain government approval before exporting a particular class of high-performance supercomputers to countries like China and Russia. Some previously exported supercomputers have been diverted to military use by China and Russia, and the proposed restriction seemed to be a common-sense attempt to staunch the flow of advanced technology to the Chinese and Russian militaries. Indeed, the House of Representatives passed such an amendment overwhelmingly last month.

But when the defense bill came to the Senate floor last week, there was furious lobbying against the measure by business groups like the Chamber of Commerce and computer companies. IBM chairman Lou Gerstner personally called members of the Senate Republican leadership and urged them to vote against the proposed amendment. On July 10, the Senate caved. The amendment was defeated 72-27. A conference committee of the two houses will now have to decide whether to retain the provision.

One other person lobbying the Senate to defeat the amendment was Jack Kemp. He distributed a letter, written on Empower America stationery, strongly criticizing the proposal. This was odd, since Kemp had cosigned an op-ed with his fellow Empower America co-directors on June 23—just before the MFN vote—arguing that "high-tech weapons and technology should not be sold to China."

What would possess Kemp to weigh in, contrary to his previous position, on such an esoteric amendment? Well, it just might have to do with his service on the Oracle Corporation's board of directors. Oracle is a California-based computer company that manufactures software compatible with the supercomputers covered by the amendment. And Kemp's board membership is believed to be highly lucrative.

Oracle refuses to release the terms of Kemp's current membership, but when he temporarily vacated the Oracle board during last year's presidential campaign, he disclosed owning 14,000 Oracle shares, valued at $500,000. Needless to say, this was not mentioned in Kemp's Empower America letter.

The MFN debate showed that business interests could trump human-rights concerns. Last week's Senate vote showed that business interests could trump national-security considerations. Is the business of America's politicians really just business?

Newt's the One?

When House speaker Newt Gingrich confided to the *Atlanta Journal-Constitution* that he may run for president in 2000, the reaction in the political community was, Yeah, right. Now here's the twist: Newt really is making plans to run for the Republican presidential nomination. Really. He's been talking to friends and allies about this for weeks. And his chief political adviser, Joe Gaylord, is said to be fully on board.

The plan calls for Gingrich to hang on as speaker through November 1998, then leave Congress and lay the groundwork for a campaign. Many House Republicans don't want him back as speaker, anyway, and this would give him a graceful way to depart. Besides, Gingrich may have considerable appeal to the GOP faithful as a presidential candidate. Despite his national popularity rating of a meager 30 percent, he's still the best Republican fund-raiser. Private polling of GOP donors shows he's more highly regarded than any other Republican. Gingrich may also have an impressive claim to make if Republicans hold the House next year: I engineered the capture of Congress and held the House through two elections. Not bad. And he's lost 20 pounds. Still, a presidential bid is only being plotted. It's not a done deal yet.

About Those White House Coffees

In his opening statement at the hearings of the Thompson committee on Tuesday, Oklahoma senator Don Nickles raised the point that it is illegal—according to Section 441c(a)2 of the Federal Election Code—to solicit contributions from federal contractors.

Where will Nickles go with this line of argument in the week ahead? For an indication, we can look at an interesting work of French-style micro-sociology called *Federal Pork and White House Coffees*, written by Kenneth R. Weinstein and August Stofferahn of the Heritage Foundation, for release on Monday, July 14.

There were 1,528 attendees at the coffees, according to lists released by the White House. Of these, 799 were either DNC officials or Clinton White House people or

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state and local Democrats. The remaining 729 attendees represented businesses, labor unions, interest groups, and nonprofits. Of those non-governmental attendees, 199 (or 27 percent) represented groups that received federal grants or contracts. The coffees raised $27 million, of which an astonishing $14.4 million was contributed by federal contractors or grant recipients.

They're getting their money's worth: In 1995, these same organizations received $825 million in grants and loans from federal agencies. They also received $30.4 billion in federal contracts in 1995, and $29.2 billion in 1996.

Don't Get a Job

Congressional Republicans are negotiating with Democrats and the White House this week over changes in the welfare bill. These talks may determine whether last year's welfare reform succeeds in moving people from the dole to the work force. At the moment, it looks likelier that new regulations and loopholes will gut state work requirements.

Language has been inserted into the Senate bill that would prohibit companies participating in state-sponsored welfare-to-work programs from hiring "that will infringe in any way upon the promotional opportunities of employed individuals." This could eliminate most productive employment opportunities available to people moving off welfare. Moreover, the threat of union-inspired litigation, and the intricacies of complying with the language, could discourage private employers from participating in state efforts to find work for welfare recipients.

Also contentious are grievance procedures. Under both House and Senate language, disgruntled workers at firms that hired former welfare recipients could subject their employers to special grievance procedures for reasons ranging from sex discrimination to displacement. The result would be financial penalties imposed by the Labor Department. Jason Turner, an architect of Wisconsin's successful welfare reform, notes that if the grievance language becomes law it will "absolutely, positively, cause the withdrawal of thousands of work opportunities in Wisconsin."

House Republicans are toiling to fix these problems, which is why it was disappointing to see Senate Republican Rick Santorum quoted in the July 8 *Washington Post* characterizing efforts to tighten the work requirements as "just silly." Not silly at all, as the goal is simply to prevent the work requirements from being weakened. Santorum also noted that the "welfare reform law is doing magnificent things." One reason for that is the work requirements. Unless congressional Republicans remain vigilant in the next few weeks, they could find their past work on welfare all for naught.

How Jude Wanniski Spent the 4th

We quote from his letter to clients: "My wife Patricia and I spent the four-day July 4th weekend in Chicago at the International Islamic Conference, hosted by the Nation of Islam, in conjunction with the World Islamic Peoples Leadership. It may have been the single most important political event I have witnessed in my life. . . . What made the event so important was that when the weekend began, Farrakhan was the spiritual leader of 200,000 members of the Nation of Islam and clearly the most influential of 33 million African-Americans. At its conclusion, Farrakhan stands a good chance at uniting 1.2 billion Muslims under his spiritual leadership." Right. With Jude al-Wanniski as his grand vizier.

The World Islamic Peoples Leadership, incidentally, is chaired by Libyan strongman Muammar Qadhafi.

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Casual

A Jones for Generalizations

I have a taste, a craving, a positive jones for generalization. Through words, generalizations give patterns to experience. Such patterns are not only necessary if you want to make any sense out of the world at all; they are inherently pleasing things, or at least to me they are. Making generalizations is, after all, one of the things writers do.

The other day I began Casanova's *History of My Life*, which begins very promisingly, with the old 18th-century roué pronouncing: "Happy or unhappy, life is the only treasure which man possesses, and they who do not love it do not deserve it." That has a nice beat; you can practically dance to it.

I tend to favor generalizations that, along with having a high truth quotient, have a fine rhythm. The danger is that the rhythm can overwhelm the truth. One of my favorite generalizations in which this occurs is one that compares women and translations. It was composed by that prolific hack Anonymous, writing this time in French: "*Si elles sont fidèles elles ne sont pas belles; si elles sont belles elles ne sont pas fidèles.*" ("If they are faithful, they aren't beautiful; if they are beautiful, they aren't faithful.") Brilliant, but, in my experience, truer of translations than of women. A shame; this generalization's thoroughly sexist sentiment only adds a touch of piquancy.

I am also partial to generalizations of nearly insane specificity. At the close of his little book *Berlin*, Jules Laforgue notes: "All Germans—all—have rings." Laforgue is writing about Germany in 1881, and so it is a bit difficult to check him out on this. Still, that second "all"—zing, right between the dashes—nails it.

The riskier the generalization, the more enticing. The British novelist Anthony Powell is the master here. In his novels he regularly uses generalization as part of his descriptions. He writes, for two examples, of "the fumes of unambitious cooking" and of the desire of neurotics "to try to make things as bad for others" as for themselves. Does unambitious cooking give off different fumes than ambitious cooking? Of course. You can smell the disappointment in the food before you eat it. Do neurotics wish to bring us down to their deep valley of unhappiness? Do bears eschew finger bowls?

Only two tests for a generalization: experience and logic. Yet some of the best generalizations seem to defy logic. Anyone—well, almost anyone—can be logical, but to seem illogical and at the same time still be right, now that takes skill. Once again I cite Anthony Powell, who says of a character in one of his novels that he speaks a number of foreign languages with facility, and, as with all people who speak foreign languages so easily, he is fundamentally untrustworthy. Quite nuts, don't you agree? I do, too, except that that statement is true of all the people I have ever met who are able to acquire speaking knowledge of a foreign language quickly. Go figure.

A generalization that fizzles brings its own quiet disappointment. "What a surprise the weather always is when one is drunk," writes John Banville in his new novel *The Untouchable*. I have thought long about this, but find it just doesn't make it, at least not for me. "Americans love singularity," writes Charles Baxter, in one of the essays in *Burning Down the House*, his book on modern fiction. I like the ambitiousness of that: all Americans! But do Americans really love singularity more than, say, Lithuanians or Laplanders? Can't, finally, be ascertained. The ping, the little jolt of recognition, isn't there.

I continue to search for handsome generalizations for my own writing. Whenever possible, I like to make my own pings. I recently came up with this: "The talented can be charming, but there is a firm kernel of selfishness at the core—perhaps it is the core—of most people with talent." Now that I reread it, I think: Not bad. Nice try. Needs a slight tune-up. Bring it back when it has the grandeur and concision of Paul Valéry's "Life is the sum of habits disturbed by a few thoughts."

The other day I hit upon an observation that perhaps will make grist for a decent generalization. Why is it that Major League Baseball, unlike the National Basketball Association or the National Football League, seems to have no players with Muslim names? I haven't yet checked all the major-league rosters, but thus far every serious baseball fan I've queried can't come up with any exceptions. If this holds up, mightn't all sorts of interesting generalizations about the sociology of American sports derive from it? At a minimum, it may allow me to change my old sports simile from "rarer than a Jew in the front four" to "rarer than a third-baseman named Ahmad." Still, as generalizations go, at this stage no cigar. Which is too bad, because all cigar smokers love generalizations.

Joseph Epstein

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The EPA's Hot and Dusty Air

In "The EPA's Hot Air" (July 7), Michael Fumento discusses what he perceives to be a weak scientific basis for the EPA's new standards for 2.5 micron and smaller particulate matter (PM2.5). I wish to add that purely natural events will occasionally place portions of the United States in non-compliance with the new standards. For example, studies going back at least 30 years have shown that enormous quantities of dust are transported across the Atlantic Ocean from Africa every summer. This dust often reaches northern South America, the Caribbean, and the southeast United States. Indeed, Sahara dust events have been tracked as far as Arizona and New Mexico. In 1991, I observed and measured a very significant Sahara dust event over southern Texas.

Sahara dust events and similar episodes that carry dust from the Gobi Desert to Hawaii each spring dramatically illustrate how small particles can be transported considerable distances. It is appropriate to question the EPA about how it plans to validate and respond to events that violate its new PM2.5 standards. Does the new EPA standard apply to natural dust events? If not, how will the EPA know whether a violation has a purely natural origin? In the case of non-natural particulates, will the EPA punish cities or regions that are in non-compliance solely because of particles that have drifted in from another region? If not, who is responsible for determining the origin of the offending particles? These questions are important, for there is not now an atmospheric network or satellite capable of validating the origin of all the many kinds of natural and non-natural dust events.

Forrest M. Mims III
Seguin, TX

Michael Fumento's article is a perfect microcosm of the endemic stupidity in the District of Cluelessness. "Conclusive studies" (as well as outright falsehoods) are tossed about as casually as frisbees on a summer day. As Fumento illustrates, the breadth of the discrepancies regarding the cost estimates for implementing the new standards is truly astounding. The very fact that there are such huge variations indicates that no one has the foggiest idea of the real costs. For example, it would be interesting to see how the EPA arrives at a cost of $4.8 million for each premature death prevented since many medical policies have only a $1 million lifetime cap. As for bronchitis at the $587,500 mark, maybe the EPA meant to quote that cost in yen or lire. For the government to foist these standards on the country in such a totally uninformed manner is to invite yet another wave of unintended consequences. As we say in the real world, "If you can't measure it, you can't manage it."

Arthur M. Shatz
Bayside, NY

Bravo to Michael Fumento from the Buckeye State. While many news magazines have addressed the issue of administrator Carol Browner's proposed particulate-matter regulations, few articles have so clearly distinguished the facts from the rhetoric. In Ohio, the governor's office is estimating that utility companies alone will have to spend at least $750 million in compliance costs.

Where I take issue with his article is the caricature of Carol Browner. If she deserves credit for one act, it has to be for having the finest hair in the Clinton administration. Possibly because of the media bias toward the first lady's ever-changing hair styles, Browner has failed to receive the respect she deserves for her stylish, shoulder-length cut. I know that The Weekly Standard isn't *People*, but Fumento might have questioned the amount of hairspray Browner uses—which could contain some of the dangerous particulate matter.

Bill Wilson
Findlay, OH

The Courts Can't Play

Kudos to David Tell for exposing the Title IX athletics scandal ("Playing Unfair," July 7). I played college soccer, a sport that does not generate revenue, and I have coached girls' and boys' teams. The current climate is taking male athletes out of their sports by elimination and installing women's sports that too often can't field enough players. On the other hand, many women's teams excel and will continue to do so.

The courts should get off the playing fields and let schools decide if and when they have enough support to field additional teams for women. As Tell points out, the basketball and football teams at the top schools are being doubly punished: cutting their rosters to accommodate statistics and still funding the women's teams. I doubt we have seen the last of the Blinn College affair.

Mark R. Dunn
Nashville, TN

An Ohio Embarrassment

Andrew Ferguson's analysis of John Glenn's tactics ("John Glenn: The Partisan Stuff," July 7) was right on the mark. It is not surprising to many of us in Ohio that Glenn has taken on the role of lead obstructionist in the fund-raising scandals. For years Ohioans had to suffer the embarrassment of being represented in the Senate by John Glenn and Howard Metzenbaum. Because of the loony rhetoric of the socialist-leaning Metzenbaum, Glenn was easily able to cast himself as a moderate. Nothing could be further from the truth. An analysis of Glenn's voting record indicates very little deviation from that of Metzenbaum.

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Circumstances began to change after the 1994 election. Metzenbaum retired from the Senate and was replaced by moderate Republican Mike DeWine. This made it difficult for Glenn to continue promulgating his false reputation as a moderate, non-partisan politician. Moreover, an examination of John Glenn's career in the Senate reveals another undeniable fact: His four-term tenure is characterized by remarkably few accomplishments. In spite of this, Glenn, in the past, has been able to win reelection easily, based on his reputation as a war hero, astronaut, and moderate complement to Metzenbaum. These traits no longer being sufficient to guarantee reelection, Glenn decided to retire after this term rather than face almost certain defeat at the hands of the highly popular George Voinovich, a moderate Republican and current Ohio governor. This has freed Glenn more than ever to be who he really is: a partisan political hack who, under White House marching orders, is intent on stonewalling and delaying an investigation into criminal activity until after the December 31 deadline.

Douglas W. Brady
Chardon, OH

Hold Her and the Remote

I happened to be celebrating my fourteenth anniversary when I read John Podhoretz's "From Singular to Plural" (July 7) about the concerns of a newlywed. The piece brought back memories of the early years of my marriage. I have three suggestions for Podhoretz.

The first is that your wife has a better memory than you do. If you don't believe me, just ask her. Remember that important date or event you forgot last year? Well, your wife does, and she will remind you of it every time you disagree on a memory subject. This actually works to your advantage. Since her memory is so much better than yours, give her the task of handling all of the important dates for both your families. The only two dates you must remember are your anniversary and her birthday. Woe to you if you forget either of these dates.

My second suggestion is to have children. They are the ingredient that completes a family. Nothing feels better than to receive your first homemade Father's Day card. They bring a smile to your face when you walk in the door no matter how hard your day was. Just remember, you are going to be the heavy for doling out the discipline. "Wait until your father gets home" will be the most uttered phrase in your wife's vocabulary. Be gentle but firm. If you waffle on discipline, kids will eat you alive.

My final suggestion is to never give up control of the remote control. I cannot put enough emphasis on this. NEVER give up control of the remote. If you do so, life as you know it will change forever. Nothing is so disconcerting as coming back from the refrigerator with a cold adult beverage and finding that the ball game you were watching has turned into the Home Shopping Network or a rerun of Barney. When you go to the refrigerator, take the remote with you.

I hope these suggestions help in the quest for a long, happy marriage. They have served me well for 14 years. Good luck.

William E. Beer
Pittstown, NJ

Sins and Sentences

Three rousing cheers to Walter Berns for his essay "Clinton Lays an Egg" (July 7). Neither Bill nor Hillary—nor Al—is a master of the spoken word. How many times have I heard all three say "different than," among other verbal sins?

I think it was one of my grade-school teachers who told the class that a good way to remember the difference between "lay" and "lie" is that "people lie" and "chickens lay." Coming from chicken country (Arkansas), this should be easy to remember for both Bill and Hillary.

Jacqueline Edwards
New York, NY

Congratulations to Walter Berns. He managed the impossible—a 135-word sentence that is somehow still readable. But I would hate to have been the student at Georgetown University who turned in a paper containing a sentence like that to Dr. Berns.

Wes Pedersen
Chevy Chase, MD

Juicy Details Omitted

I enjoyed the July 7 issue's great stories. But I was puzzled by some omissions. In the Scrapbook item "The President's Private Life," I wonder why you were so gentle with the famous Bob Woodward. It is apparent he has been enlisted as a shill in the White House campaign against Kenneth Starr.

Also, in Andrew Ferguson's "The Partisan Stuff," why did he omit the fact that John Glenn was one of the original Keating Five, who conspired to destroy the savings and loan industry and bilk the taxpayers out of $300 billion? Perhaps a subpoena should be issued to John Glenn, as well as to the other Democrat crooks.

Donald R. Holm
Port Townsend, WA

Another Lawyer Joke

Matthew Rees's excellent article regarding Judge Stephen Reinhardt ("Judge Reinhardt, the Overturned," May 5) and the Scrapbook item "Overturned Again" (July 7) remind me of a hoary lawyer joke about a judge so inept (let's call him Judge Fuddle) that appellate briefs would begin thus: "This is an appeal from a decision by Judge Fuddle. Additional reasons for reversal are as follows . . ." So it should now go with Reinhardt.

Park Chamberlain
Woodside, CA

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the weekly Standard

NATO: The More the Merrier

"We want to be embedded in the Western camp," said a prominent Polish legislator last week, as NATO acted to admit Poland, Hungary, and the Czech Republic to membership. A 70-year-old woman in Warsaw who had turned out to see the president of the United States told a reporter, "We are finally free."

Exactly. To expand NATO is to advance the cause of freedom and to strengthen the West—to increase its reach, to lock in its gains, to deepen its influence. The enlargement of NATO to include the democracies of Eastern and Central Europe is the culmination of the events that began in 1989 with the crumbling of the Berlin Wall. It is the logical follow-on to our long and successful struggle against Soviet communism.

Above all, it is the foundation for what can only be called an "American peace" in Europe. Europe without the United States simply doesn't work. In the absence of American involvement and strong leadership, Europe is prone to division and bloodshed. This was true long before the Soviet Union imposed its occupation on Eastern Europe. Our departure from European affairs after World War I, when we looked to our own security between two oceans, was essential to Hitler's rise and the ensuing world war. We did not make the same mistake in the late 1940s. Our leadership in Europe—indeed, our willingness to risk nuclear attack to deter Soviet aggression against our European allies—led to a victory over the Soviet Union that cost us not a single life in a European war.

The good news is that the sacrifices we will have to make to preserve the American peace in Europe are likely to be relatively small. The monetary price of incorporating new NATO members is expected to be less than a billion dollars a year. More considerable is the fact that we must be prepared to fight, if necessary, to defend our new allies. We will need both the political will and the military capability to make this commitment credible. But as the Second World War and the Cold War taught, a demonstrated willingness to fight for Prague, for Warsaw, or for Budapest is the best guarantee against our ever having to do so.

> AS THE SECOND WORLD WAR AND THE COLD WAR TAUGHT, A CREDIBLE WILLINGNESS TO FIGHT IN EUROPE IS THE BEST GUARANTEE OF PEACE.

Even so, a number of influential Americans are mounting an effort to ensure that we squander this historic opportunity to extend the zone of peace and democracy.

The forces aligning to defeat NATO's enlargement in the Senate next year are a motley crew. There are a few nationalist and isolationist politicians, like Patrick Buchanan, who still believe, as their forebears did in the 1930s, not just in "America First" but in "America Alone." Then there are lots of foreign-policy intellectuals, mostly doves from the '70s and '80s. They don't like military alliances, they don't like U.S. military commitments, and they don't like U.S. leadership, not to say preeminence, in the world.

In a recent letter to President Clinton, many of these high-toned opponents try to rally the American people against NATO enlargement. They warn of the "high cost" of the new policy—as if a few hundred million dollars a year is too high a price for peace in Europe. They oppose extending American commitments to countries with border disputes or potential ethnic problems, as if it were better to ignore these problems than to defuse them early. And they complain that the enlargement of NATO will somehow "degrade its ability to carry out its primary mission." Missing from their letter is any explanation of what that "primary mission" is. Perhaps they don't know. For the rest of us, it is pretty clear that NATO's primary mission is to keep the peace in Europe. That is better accomplished by bringing new members in than by leaving them in a geopolitical no man's land.

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There have been legitimate cautions about NATO enlargement—above all, that it could have inflamed nationalist passions in Russia, weakened the fragile democracy there, and created a new line of confrontation in Europe. We have shared these concerns. Unlike some proponents of NATO expansion, we are not Russophobes. Although the enlargement of NATO is a prudent hedge against any resurgence of Russian imperialism, there is little evidence of such a resurgence today. The new democratic Russia should be a friend and partner of the United States. Bolstering Russian democracy is crucial to preserving the American peace in Europe.

Happily, there is no real sign of a new nationalism or irredentism in Russia. Polls show that the Russian people are generally unconcerned about NATO. Meanwhile, Russia's democracy seems, if anything, to be taking firmer hold. Even in the face of impending NATO expansion, Boris Yeltsin has fired hardliners and appointed moderate reformers and committed democrats like Boris Nemtsov to top positions in the government. In recent months, Russian and Ukrainian negotiators have reached amicable agreement on the difficult issue of the Black Sea fleet and the ownership of naval bases in the Crimea.

THE ENLARGEMENT OF NATO IS ONLY ONE PART OF AN OVERALL STRATEGY OF BOLSTERING AND EXTENDING AMERICA'S GLOBAL LEADERSHIP.

The Clinton administration has worked closely with Russia throughout the process of enlargement. Indeed, the cooperative agreements reached between NATO and Russia in recent months would probably never have come about if NATO had not taken in new members. Most Russians understand that NATO enlargement is not directed against Moscow. It is nothing more, and nothing less, than an extension of American leadership in Europe in the interests of stability and democracy—interests that a democratic Russia should share.

In the coming months, critics of NATO enlargement will come up with a dizzying array of objections to the policy. They will try to make the issue appear maddeningly complex and hope that the American people get lost in the fog. But when the time comes for the Senate to vote, the question will really be quite simple: Will the United States proudly shoulder its responsibilities in Europe, as it has for the past 50 years, or will it turn away and let the peace we have so painstakingly constructed be eroded? There is no third option. The liberal intellectuals and retired policymakers who are fighting NATO enlargement may believe that a Senate rejection of the new arrangement is consistent with a continued U.S. commitment to Europe. It isn't.

Let us be clear: NATO expansion is our most consequential foreign-policy decision since the Gulf War. If the Senate votes to refuse to admit new democracies to our alliance, that choice will be understood, both in the United States and in the world, as a victory for Buchananism. And rightly so. For the rejection of NATO enlargement would set the stage for a new era of American isolationism.

We close with a word to our fellow supporters of NATO enlargement, including the Clinton administration.

American leadership in Europe and in the world is not a divisible commodity. We cannot expect to help protect peace, stability, and democracy in Central and Eastern Europe, for instance, if at the same time we abdicate our leadership in Bosnia. Some pro-NATO senators have worried that next year's vote on enlargement will likely come at about the same time as a vote on maintaining the American presence in the Balkans. But we welcome this twin test of our willingness to preserve the American peace. For if we decide next summer to wash our hands of Bosnia and allow the brutal war to resume, a vote to enlarge NATO will be hollow.

Similarly, both the Clinton administration and the Republican-controlled Congress seem to believe that we can expand our commitments abroad while eroding our military capacity to honor them. Thus, as NATO expands over the next five years, our defense budget, locked in by the recent budget deal, will decline in real dollars. We will have fewer divisions, fewer aircraft and ships, and outdated weaponry—all to meet obligations that are greater than ever before. This mismatch of means and ends cannot last.

Next year, therefore, the Senate should vote decisively to approve NATO enlargement. The president and Congress should agree to keep U.S. troops in Bosnia beyond the June 1998 "deadline" if they are needed to preserve the peace there. And the Republican-led Congress should act to reverse the steep and dangerous decline of our military strength.

The enlargement of NATO, in short, is only one piece in an overall strategy of bolstering and extending America's global leadership. We can help secure an increasingly peaceful and democratic Europe well into the next century. This is in Europe's interest, America's, and the world's. The opportunity is ours. We should gladly seize it. ♦

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Ernest Green's Bonus

by Byron York

Something important did happen in the Senate hearings last week on the Clinton campaign-finance scandals. It just takes some explaining.

A few months ago, I wrote a short piece for The Weekly Standard on a suspicious $50,000 donation made to the Democratic party by Ernest Green, a longtime friend of Bill Clinton ("Ernest Green, Donor," March 31, 1997). That $50,000 gift in February 1996 coincided with the White House visit of Chinese arms dealer Wang Jun. Wang Jun was in Washington as the guest of Green and the investment bank Lehman Brothers, where Green is a top executive.

Reports of Wang's presence at the fund-raising "coffee" pushed the campaign-finance scandal to a new level. Press accounts suggested Green pulled strings to get Wang into the White House and then paid for the high-level access with a check for $50,000. Green did not answer the allegations until late March, when his lawyer, Robert Washington, spoke to me.

Washington insisted that the $50,000 had nothing to do with Wang's visit to the White House. As a matter of fact, the lawyer said, Green did not even know Wang planned to attend the coffee. Washington said Green donated the money simply because he wanted to become a high-level player in Democratic politics and felt that a large contribution was a way to reach that status. And the $50,000, Washington added, was entirely Green's own money.

Washington said Green received a 1995 year-end bonus check from Lehman Brothers that was well into six figures—more than enough for Green to make the $50,000 donation. Green hand-delivered the check—actually given in the name of his wife Phyllis—to a DNC official on the morning of February 6, 1996. Later that morning, Green had a business meeting with Wang at the Lehman Brothers offices; it was only then, Washington said, that Green learned of Wang's plans to attend the White House coffee later in the afternoon. Washington stressed that Green played no role in getting Wang into the White House coffee. "Absolutely not," Washington told me. "It was Charlie Trie."

Fast-forward to last Tuesday, the first day of testimony in the campaign-finance hearings. Sen. Arlen Specter asked former DNC finance director Richard Sullivan what he knew about Wang's White House visit. "Senator, I'm not going to deny it was a mistake," Sullivan said, but "it was in the context of something that was important to Ernie and Charlie." Meaning Ernie Green and Charlie Trie.

Specter challenged the witness: Shouldn't Wang's visit, coupled with Green's $50,000 donation, create "questions which ought to leap up at you without any analysis or any real thought?" Sullivan's answer showed that Specter's question was beside the point. "Ernie had this guy in town doing business," he said. "Ernie had been a longtime supporter. And it was purely as a favor to Ernie."

And what about the $50,000 itself? Specter told the committee that, in addition to the year-end bonus Green had received from his employer, "later in the month" Green "got a supplemental bonus of $50,000

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from Lehman Brothers." (Specter later clarified the numbers: The original bonus was $114,000, the additional bonus $54,000.)

"That's flat-out wrong," Washington told me when asked about the allegations. Washington says Green did indeed receive a supplemental bonus, but it was not $54,000; it was $90,000. And Washington says Green didn't get it in February 1996, as Specter said; he got it in April 1996, two months after making the big contribution to the Democrats. There was no connection between Green's gift and the supplemental bonus, Washington says, and he has given the committee documents to prove it.

A DEMOCRATIC PARTY DOCUMENT LISTS GREEN'S $50,000 DONATION UNDER "POTUS COFFEE 2/6/96" (POTUS BEING SHORTHAND FOR THE PRESIDENT).

But Green himself told committee investigators he received a second bonus sometime toward the end of February, according to Senate sources. They also say Washington indicated the same to them. And then the sources produced a significant piece of evidence: a copy of a DNC financial document that lists Green's $50,000 contribution under the heading "POTUS Coffee 2/6/96." POTUS stands for "President of the United States."

The case should serve as a lesson for all who are inclined to dismiss the hearings as a partisan show—and evaluate them on the basis of which side has produced the best soundbites. The same week THE WEEKLY STANDARD story appeared, Thompson's committee subpoenaed both Green and Lehman Brothers. The evidence they have gathered demonstrates how the Senate investigation is producing real information. And after Washington's earlier statements to the press—incomplete at best—it will be interesting to hear his answers when investigators with subpoena power ask questions about stories we thought we already knew.

Byron York is an investigative writer with **The American Spectator.**

EVERY MAN A KING

by Fred Barnes

"OHHHHHHH," said Rep. Bill Archer, chairman of the House Ways and Means Committee. "Family economic income!" Archer spoke with mock surprise when on June 11 assistant treasury secretary Donald Lubick cited that concept as the committee was drafting the tax bill later passed by the House in slightly modified form.

What is "family economic income"? Archer asked. John Karl Scholz, Treasury's top economist on tax issues, stepped forward to answer. Well, he said, there's the wage-earner's actual income, of course, plus a few other things. Scholz explained them: an estimate of unreported and under-reported income; IRA and Keogh deductions; Social Security and welfare; fringe benefits; build-up of pensions, IRAs, Keoghs, and life insurance; tax-exempt interest; and "imputed rent." Imputed rent? That's the rent a person would pay for his house if he didn't own it, Scholz said. "This is incredible," responded Archer. Americans will never accept all that as part of their annual income.

They may never hear about the idea. It was midnight when Archer asked Clinton administration officials to explain family economic income (FEI), and the public was hardly alert to what was happening in Washington. Few reporters were around, either, and the press has scarcely noticed FEI. Yet it's the chief basis for President Clinton's charge that the House and Senate tax bills lopsidedly favor the rich. This claim is purposely deceptive. For the attack to work—and it *is* effective—the president must create millions of wealthy taxpayers out of whole cloth. And FEI does exactly that.

FEI is not a complicated concept. It simply adds another 50 percent to what people receive in their paychecks. Thus, it turns millions of middle-income people into rich folks with six-figure incomes. Using these inflated figures, Clinton has grounds to claim that households with income over $93,222 would get 65 percent of the benefit from the GOP tax bills. Using a figure closer to "adjusted gross income"—the amount people actually pay taxes on—Republicans insist 75 percent of their tax cuts will go to households making $75,000 or less. True, Republicans count only the first five years of the cuts, when some tax breaks (inheritance, IRAs) are not fully implemented. But the impact of any tax measure after five years is purely speculative.

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Why haven't reporters zinged the administration for invoking FEI, which even Rep. Charles Rangel, the ranking Democrat on Ways and Means, has conceded is an inappropriate measure? For one thing, they haven't devoted much coverage to the tax fight at all. Also, it's easier to cite competing claims without evaluating them. (One journalist who did an evaluation, Matthew Miller of *U.S. News & World Report*, came to the astounding conclusion that Clinton's claims were less distorted than the GOP's.) More typical was the June 16 report of NBC's White House correspondent, David Bloom: "A preliminary analysis by Mr. Clinton's Treasury Department concludes that if you divided taxpayers into five groups, the top 20 percent with family incomes over $93,000 get two-thirds of the tax cuts under the Republican plan. Republicans dispute those numbers."

The main reason for the lack of media interest, however, is structural: Most reporters aren't sympathetic to Republicans on taxes, and the White House is better at getting its message out anyway. Certainly Republicans have tried to draw attention to the phoniness of Clinton's tax claims. Archer has issued detailed press releases with charts and tables to expose FEI. One showed that under FEI, the supposed income of an earned-income-tax-credit recipient making $24,000 would leap to $41,173. "We talk about this at every press conference," said Sen. Paul Coverdell of Georgia. "We talk about it on the floor, off the floor, at home. It's just slow in developing. The president has a huge ability to move a piece of information in 24 hours. We have no comparable ability."

A few reporters have caught on. Art Pine of the *Los Angeles Times* wrote skeptically about FEI and said it may give Democrats a "small propaganda advantage." Carl Cameron of Fox News Channel reported on a family that was outraged to discover its $65,000 income bloated to more than $93,000 in administration calculations.

> FOR CLINTON, USING "FEI" ISN'T CRAZY—IT'S NECESSARY. IT'S WHAT ALLOWS HIM TO ZAP THE GOP FOR SUPPOSEDLY AIDING THE RICH.

But the administration is unapologetic. Budget director Franklin Raines said using FEI "from a technical standpoint . . . is quite fair." At Treasury, officials played up a report by the Congressional Research Service that defends FEI as a legitimate tool in the current tax debate. They also noted the Reagan and Bush administrations used a version of FEI from time to time. If Republicans did, said Coverdell, "we were as crazy as they are."

For Clinton, using FEI isn't crazy, it's necessary. Republicans crafted tax bills in both houses that are oriented to the middle class, particularly through new benefits like the child tax credit and deductions for college expenses. Republicans shied away from cutting individual income tax rates because that would tilt the distribution tables in favor of the rich. According to the Joint Economic Committee, the GOP cuts will leave the top 20 percent paying the same share of the income tax they do today, 63 percent. This didn't give Clinton a basis for zapping Republicans for aiding the rich. So he invented one.

Fred Barnes is executive editor of THE WEEKLY STANDARD.

THE TRUTH ABOUT PREFERENCES

by Gail Heriot

A FEW YEARS AGO, no secret was more closely guarded than university affirmative-action statistics. "Preferences? What preferences?" was the official line, and the occasional leak was handled with astonishing ruthlessness. Consider the case of the law student who exposed the credentials gap between "affirmative action" and "regular" admittees at Georgetown University Law Center. Only a public outcry caused Georgetown to back down from its threat to expel him. Instead, university administrators satisfied the calls for blood on campus by reporting his conduct to the bar. All the while, Dean Judith Areen blandly maintained that Georgetown did not discriminate on the basis of race.

Things have changed; now we're awash with information. It seems that every week there are more press conferences, more news releases, more National Public Radio interviews.

The good news is that universities are finally admitting what most people knew all along, even

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though it was difficult to pry loose specific information: In campus admissions offices, race matters. A lot. Those of us who wielded the crowbar in years past are gratified by this newfound candor.

But candor is actually just a tactical retreat for the defenders of preferences. They now claim that the beneficiaries of racial preferences perform just as well as the better-qualified students. Hence those who call for a greater emphasis on academic qualifications and less emphasis on skin color are anguishing over nothing—or so the argument runs.

In truth, the data prove just the opposite. But the media have reported the claim uncritically. And with each retelling, the real facts become more and more distorted. Tim Russert put it this way on *Meet the Press*: "A study done . . . of law school admissions in 1991 . . . concluded that blacks who were admitted under affirmative action performed just as well as whites in law school and on passing the bar exam."

Wrong. In California, when it came to passing the bar, the gap between whites and African Americans was so wide that the bar examiners modified the test format to include a "performance test" of practical skills, hoping that it would close the gap. It didn't. In 1994, well after the addition of the skills test, the bar passage rate for first-time takers in California was 81.3 percent for whites, 53 percent for African Americans.

In New York, the disparity was greater. The Millman Report, commissioned by the New York Court of Appeals to examine this and other problems, found that whites pass at a rate of 81.6 percent, as opposed to 37.4 percent of African-American test-takers.

This sorry picture is almost solely the result of preferences. When African-American exam-takers compete against white exam-takers who have the same score on the law-school admissions test, they fare about the same, according to Stephen P. Klein, a research scientist for the Rand Corporation. But a system of preferences necessarily pits many minority students against students with substantially better academic credentials. The result is predictable.

The problem is not unique to law schools. A study published in the *Journal of the American Medical Association* reports that white medical students passed the National Board of Medical Examiners Part I exam at a rate of 87.7 percent, African Americans at 48.9 percent. Again, matching academic credentials (in this case, the MCAT score and undergraduate GPA) made the discrepancy all but disappear.

So what is the new report Russert referred to, and how could it reach such an unexpected conclusion? Polemically titled "The Threat to Diversity in Legal Education," the report was written by Linda Wightman and published in the April issue of *New York University Law Review*. Contrary to Russert's representation, the study does not even purport to compare white student performance with African-American performance. It compares exclusively within race. African-Americans who would not have been admitted without a preference are compared with African-Americans who did not need one. Similar comparisons are made for other racial and ethnic groups.

The study does *not* find that, among African Americans, beneficiaries of preferences performed "just as well" as non-beneficiaries. To the contrary, it reports that African-American preference beneficiaries failed the bar at a rate almost *three times* that of non-beneficiaries of the same race (27.1 percent vs. 9.8 percent)—a highly significant statistical difference. This is hardly performing "just as well."

AMONG AFRICAN AMERICANS, THE STUDY FOUND THAT PREFERENCE BENEFICIARIES FAILED THE BAR AT ALMOST THREE TIMES THE RATE OF OTHERS.

Wightman is obviously not pleased to be reporting such a gap; at every turn, she selects the strategy that will minimize such distinctions. Thus, she chooses to compare within race. If she had made cross-racial comparisons, she would have found, for example, that African-American beneficiaries of preferences fail the bar almost *eight times* more often than white non-beneficiaries. Putting data together from different states is another statistical trick she pulls. In many states, the level of competence one must demonstrate to pass the bar is set so low that almost everyone passes. Including those states in her study dilutes the difference in bar passage rates in states with serious bar exams. Hence the overall passage rates look high, even while the gaps in major states like California and New York are vast.

Even Wightman, however, can't completely erase the difference. After her best efforts, her data still show nearly a threefold gap. And as long as racial preferences continue to prevail in higher education, the gap won't go away. She therefore obscures it with boldly misleading conclusions.

She writes that "the data suggest little to no difference in the likelihood of passing the bar examination between" those who have benefited from racial preferences and those who haven't. The phrase "little to no difference" is the real magic here. Most people would consider a threefold difference a huge gap; Wightman

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declares it "little." As for her "no" difference, it refers to her computations for Mexican Americans and American Indians. Although in these groups, too, beneficiaries of preferences tended to fare worse on the bar than others, their numbers in her sample were too small to permit meaningful generalizations.

It is unsurprising that readers would be misled; even Wightman's editors were confused. In composing an abstract of her article (which authors ordinarily see prior to publication), they wrote that Wightman found "no significant differences in . . . bar passage rates." This statement is just plain false.

Wightman apparently relied on the media not to look too closely at the details of the study. She got her wish.

Gail Heriot is professor of law at the University of San Diego.

A Neumann with a New Plan

by Craig Gilbert

Rep. Mark Neumann is a conservative Christian. He's pro-life and anti-homosexuality. He recites the Pledge of Allegiance before press conferences. Righteous, impatient, and indefatigable, he has the headlong stride and self-certain zeal of a man on a mission. But that mission, it turns out, has less to do with family values than fiscal rectitude. If Neumann has made a name for himself in his short House career, it's as a deficit hawk, not a culture warrior.

Now, after spending two-plus years out-hawking his own leadership on spending bills, the sophomore congressman from Wisconsin has launched a cause that lies beyond balanced budgets. The one-time math teacher and homebuilder wants the federal government to retire its $5 trillion-plus accumulated debt. Every penny of it. How? By locking in budget surpluses well into the next century and using most of those surpluses for debt retirement. "I think we have a responsibility to the children of this nation to take care of the mess we created," he says.

> BY FORCING THE ISSUE OF WASHINGTON'S $5 TRILLION-PLUS DEBT, REP. MARK NEUMANN HAS ACTIVATED AN OLD REPUBLICAN FEUD.

After 30 years of deficits, visions of a debt-free America might seem both apple pie and pie-in-the-sky, impeccably wholesome and hopelessly academic. But Neumann's plan has touched off a remarkably barbed debate among Republicans and conservative activists.

The *Washington Times* has embraced it. The *Wall Street Journal* has assailed it. Paul Weyrich loves it. Jack Kemp hates it. Reaction from the Heritage Foundation has been icy, the National Taxpayers Union mixed, the Cato Institute cautiously receptive. House speaker Newt Gingrich and budget-committee chairman John Kasich are on board. Senate Republicans are not.

In the face of scattered but acid criticism, Gingrich summoned more than a dozen activists, strategists, and policy mavens for a round-table/cease-fire on Neumann's idea in his office last week. What came out of it, according to one participant, was that "everybody hugged and kissed" and agreed on one thing: In case of surplus, don't let the Left spend it. As for the fundamental intra-party rift—debt retirement vs. tax cuts— "we agreed to have a polite family discussion and debate," says Heritage Foundation economist Dan Mitchell, one of the plan's arch-critics.

By forcing the argument, Neumann has stepped into an old Republican feud (supply-siders vs. deficit hawks) and fingered an unexpectedly emergent issue: how to plan for a surplus. At the moment, of course, a debate on the merits of $5 trillion worth of debt reduction seems amusingly theoretical. "It's just not going to happen," says the National Taxpayers Union's Dave Keating. "I don't think you could find any government that's ever done that."

But Keating does think Congress needs a mechanism for dealing with windfall revenues. If government receipts keep roaring past projections, as happened in 1996 and is likely to happen in 1997, the notion of encountering a budget surplus one of these years is no longer implausible.

Neumann's proposal has two main ingredients. First, it would generate regular surpluses by capping the annual growth in spending at one percentage point less than revenues. In a year when revenues are projected to grow by 5 percent, spending growth would be

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capped at 4 percent.

Second, Neumann would use one-third of each year's surplus for tax reduction, and two-thirds for debt retirement. "If I had my way, it would all go to debt repayment," Neumann says, but he concedes the need to placate the party's tax-cutting brigade.

Placated it isn't. When Jack Kemp digested the Neumann plan, he penned a fervent four-page critique to Gingrich, complaining that locking in budget surpluses would keep taxes artificially high; that it would "put the cart of austerity ahead of the horse of economic growth"; that the best way to lower the debt burden is by expanding the economy, not satisfying old debt; that it's better to cut taxes than generate surpluses; and that the politics of reserving large revenue streams for debt-elimination are hideous.

"Canadian, French and English conservatives chose austerity over growth, and the GOP will suffer the same fate if we make the same mistake," Kemp wrote. Supply-side critics have invoked all the familiar green-eyeshade archetypes—Hoover, Ford, Bush, Darman—against the plan. Neumann "wants Republicans to stand for the abstraction of paying down the national debt by the year 2026, even if it means taxing Americans at higher rates than are needed to balance the federal books," the *Wall Street Journal* editorialized. This "castor-oil" approach, the *Journal* said rather savagely, "is so politically dumb it would never really happen."

Mitchell says he and other critics have tried to make lawmakers understand "there is literally no credibility to this approach in any school of economic thought." He is especially disdainful of Neumann's attitude toward the debt, which he regards as "puritanical": "Debt is neither good nor bad," Mitchell says. "You would think someone who is a homebuilder would understand that."

Neumann admits he has a moralist's take on the issue. "I am somewhat in shock that there are people out there who honestly believe passing on a $5.3 trillion debt to our children is not a problem," he says.

Mark Neumann

Kent Lemon

Neumann plans to introduce his National Debt Repayment Act later this summer. He has more than 90 House cosponsors, but is looking for his first in the Senate. Those who attended Gingrich's meeting on the subject say the speaker—who has been ripped by supply-siders for nurturing the plan—is trying to referee the debate.

Gingrich underscored the importance of preserving the party's political coalition, which he described as a three-legged stool: tax cutters, Neumannites, and a third group defined, curiously enough, as Republican spenders, epitomized by powerful House transportation chairman Bud Shuster. Beyond the need to service the coalition, a political question Gingrich must ponder is whether retiring the debt wins votes.

Neumann, who plans to run for the Senate next year against Wisconsin Democrat Russ Feingold, argues that slaying the debt is just the kind of mission to mobilize a hand-wringing, meandering Republican party. He is willing to hang a campaign on the need to liberate America from its prison of debt: "I would be happy," he says with characteristic sweep, "to stake my future on it."

***Craig Gilbert is a reporter in the Washington bureau of the* Milwaukee Journal Sentinel.**

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FAULTY HEARING

Dear Diary: You Won't Believe What I Had to Sit Through This Week

By Andrew Ferguson

Tuesday, July 8

Of course we presshounds deplore the corruption of news with the values of entertainment—it trivializes serious issues, as you know, and endangers the creation of an informed electorate, without which no democracy can long survive—but mostly we like a really good show. And we've been hoping, desperately, that the Thompson hearings into the fund-raising abuses of the 1996 presidential campaign will be a really good show. But we may be out of luck. Already several events have conspired to make sure the Thompson hearings that begin today will be, at best, merely a pretty good show and, at worst, a boring show. We hate boring shows.

For one thing, the committee's own leakers have been busy in the last week lowering expectations. "I wouldn't expect any big smoking guns if I were you," one Republican senator told me. "No John Deans. No great earthshaking revelations." Normally, in decoding pol-speak, which is highly encrypted, I would take him to mean precisely the opposite of what he says—as another example of "lowballing," dampening expectations so that the revelations, when they do come, will seem all the more titillating. But the thought nags: My God, what if he really means it?

Another reason the hearings may not contain any great revelations is that the White House and the committee's Democrats have been preemptively leaking revelations to the press—the way a bomb squad will detonate an explosive under controlled conditions so no one gets hurt. Yesterday, the day before the hearings began, was a day of dueling leaks. The *New York Times* had the best one: President Clinton himself, we learned, intervened to get John Huang hired as a fund-raiser at the Democratic National Committee. Since the Republicans want us all to infer that Huang may have been a Chinese agent, this bit of news would have been quite dramatic if it were uncorked in open hearings. But now, suddenly, it's old news. The current cliché, endlessly repeated by clever people, is that in Washington the scandal isn't what's illegal but what's legal. During the Clinton administration we've seen the birth of a corollary: If it's already been in the newspaper, it can't be a scandal.

A good show needs a bracing curtain-raiser, and immediately after the gavel fell this morning, formally commencing the hearings, chairman Fred Thompson tried to give us one. With his rumbling Southern drawl and imposing physical dimensions—and, most important, with his many years of acting in Hollywood—Thompson can summon an impressive display of gravitas at will. He said that, owing to information acquired only in the last 24 hours, he had an opening statement to make before he made his official opening statement—a pre-opening opening statement, as it were.

> THE CLINTON ADMINISTRATION HAS PERFECTED A NEW SPIN—IF IT'S ALREADY BEEN IN THE NEWSPAPER, IT CAN'T BE A SCANDAL.

"The Committee believes that high-level Chinese government officials [have] crafted a plan to increase China's influence over the U.S. political process," Thompson intoned. This involved pouring money into political campaigns, apparently, which is against the law. Moreover, the FBI briefed the White House about the Chinese caper. "This raises questions about who in the White House should have known—or actually knew—of the Chinese plan and how it had come to be implemented."

Ka-boom? Not really. This too has been in the papers, after all. Finance-scandal scholars have long assumed that the centerpiece of the committee's work would be to trace illegal campaign contributions, if possible, back to their Chinese source, maybe even

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(please God) through John Huang. "The great majority of information about this matter cannot be discussed further in open session," Thompson said in closing. And that was it. In other words: "If you knew what we knew, you'd be *amazed*. But you're never going to know what we know, because we're not going to tell you. We're just going to talk about it among ourselves."

It's a curious way to open a hearing—letting everybody know that they won't be hearing the juiciest bits. But Thompson has said all along—and repeated again today—that "these hearings are not trials where people are prosecuted. They are not soap operas designed to titillate. Rather these hearings are about looking at a system, at how our government is working, designed at the end to make our system better." A giant exercise in system improvement? My God, he really does mean it.

But of course the hearings are also about scoring political points. And there was plenty of that as the morning wore on. The entire session today was given over to opening statements, and the only interest lay in deciding whose statement was the most banal. Sen. Susan Collins of Maine took an early lead by quoting, inevitably, the catchphrase from *Jerry Maguire*: "Show me the money." Then Pete Domenici elbowed her aside, with quotes from Justice Brandeis, Walter Lippman, and Woodrow Wilson—three quotes in five sentences! By the end of the day, quotes had also popped up from Aristotle, Tom Paine, Allen Dulles, Harry Truman, W.C. Fields, and that old segregationist fraud Sam Ervin. Other Republicans quoted Deep Throat (the leaker, not the movie): "Follow the money." All agreed that these hearings into the unparalleled sleaziness of the Democratic party should proceed in a spirit of bipartisanship.

The Democrats, for their part, agreed that, in the interests of fairness, Republicans should be exposed as even sleazier than the Democrats. And of course they've got a case. Did President Clinton invite contributors to pajama parties in the Lincoln Bedroom? Sen. Carl Levin pointed out that President Bush used White House stationery to announce fund-raisers. Were the president's famous coffee klatches unseemly? Levin mentioned a fund-raiser at Vice President Quayle's official residence. Did the Democratic National Committee end up with foreign money? Don't forget Haley Barbour, the chairman of the Republican National Committee, who brought in money from Hong Kong.

This is the Democrats' first line of defense: Everybody does it, and the other guy does it worse. The second is to inject identity politics into the investigation—to accuse of racism, preemptively, anyone who dares dwell upon malefactors with names like Huang and Chung and Trie. The award for most shameless opening statement went, by acclamation, to Bob Torricelli, the elegantly dressed, formidably tanned senator from New Jersey. He used to date Bianca Jagger, and for the first time I got a hint of why they broke up. I ran into him in the men's room this morning, during a break, as he delicately arranged his hair. He was staring in the mirror with such bedazzled infatuation that I felt embarrassed, as though I had interrupted a pair of mooning lovers. The look on his face was almost pornographic. I can imagine the hell he must have gone through every morning fighting Bianca for bathroom time.

But he's a gutsy guy—so gutsy, in fact, that he's not ashamed to admit it. "I want to assume one responsibility," he announced to his colleagues. Though I can't reproduce the swoops and dips of the senator's faux-JFK delivery, his statement is worth quoting at length:

"Forty years ago, another chairman of a congressional committee, a senator also from the state of Tennessee, convened an inquiry into wrongdoing in our country. . . . It was only on a flickering television screen, but I will never forget it and even if I tried, my family would never allow me. It was Estes Kefauver, and he left the American people with the unmistakable impression that because of the misdeeds of a few individuals [i.e., ahem, the Mafia], there was a general problem of the role of Italian Americans in the commerce of this country. The pain, Mr. Chairman, that many Americans felt on that day must not and will not be allowed to be visited upon Asian Americans in the coming weeks."

That's Bob Torricelli's challenge. That's Bob Torricelli's responsibility. And if you want to barf, so be it.

Wednesday, July 9

Day Two, and already I'm getting discouraged. I read in John Carmody's TV Column in the *Washington Post* this morning that even MSNBC—*even MSNBC*—has declined to carry the hearings live. They'll broadcast the Nevada boxing commission's hearings on the future of Mike Tyson instead. Since when does a little nibble on an ear take precedence over Communist infiltration of our political process? Where are our priorities in this country? We, as a people, have lost our way.

Excuse me. I've been thinking so much about Torricelli that I'm starting to sound like him. But I think maybe the hearings have lost their way too. One problem is the hearing room itself. Normally such high-

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profile shows would be held in the Senate Caucus Room, a grand chamber that has served as the site for juicy Capitol Hill spectacles through the ages, from Teapot Dome to Army-McCarthy to Watergate and the Thomas-Hill hearings. When Estes Kefauver launched his pogrom against every olive-oil importer in America, he did it from the Caucus Room. TV reporters love the old Caucus Room because it gives them an obvious kicker—"Yes, Tom, these old walls have heard the question before: 'What did the president know and when did he know it?'" Not this time, though. The hearings are being held in the sleek and bland Room 216 of the Hart Office Building. It's a "state of the art facility," with lots of camera stands and monitors and sound boxes and arc lights—all the appurtenances of a big TV studio. Which it is.

There was only one witness scheduled for today, the former finance director of the DNC. He's Richard Sullivan, and he's 33, though he looks about 12. I've made a mental note to check how often the word "boyish" is used in tomorrow's papers.

Fred Thompson

Chas Fagan

Sullivan is a Washington type: the young political obsessive who graduates college to sign on with one political campaign after another, eats half his dinners from Dominos late at night with his pals in trashy campaign headquarters, gets dazzled and then bored driving Ted Kennedy or Alan Simpson to fund-raisers, and careens toward total burnout a decade before middle age. Sullivan is about to take the bar exam, after which he will make more money in a month than the congressmen for whom he worked make in a year. Maybe he *is* another John Dean.

John Dean without the felony convictions, that is. He even has a pretty blond wife sitting supportively behind him, like Mo. As a finance director, Sullivan may have been aces—and, except for that small matter of millions of dollars in illegal contributions, he probably was. But as a witness he's stolidly undramatic. Only slowly, very slowly, did it become clear what the Republicans wanted from him. Apparently they wanted him to say that undue pressure was exerted on the DNC—from the president, the White House staff, and the Lippo Group—to hire John Huang. But Sullivan didn't agree. They wanted him to admit that the White House coffees were illegal fund-raisers; Sullivan said they weren't fund-raisers at all. They wanted him to admit that the DNC's system for verifying contributions was dismantled for nefarious reasons. He says the system just "atrophied." And on the big question about the Chinese plan to infiltrate our political process, he drew a complete blank.

The Democrats, on the other hand, wanted him to agree that the Republicans were sleazier than the Democrats. He allowed as how that was true.

To pass the time, I busied myself reading handouts. Young functionaries from both parties—budding Richard Sullivans—circulate among the presshounds continually, bathing them in paper. The ones from the DNC are the best. "Key Points on What Happened in Today's Hearings," reads one handout I got this afternoon. It's printed in bold-faced type. "1) Nothing New in Morning Testimony—Huang Hiring Detailed Seven Months Ago. . . . Instead of wasting taxpayer money on hearings today, investigators could have got the same information seven months ago from a 60-cent newspaper." You see? No scandal. It's already been in the paper.

When I get tired of reading this stuff at the press tables in the hearing room, I can get it firsthand in the hallway outside. This is Spin Central. At every break in the proceedings, committee staffers and White

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House officials rush to the hallway to tell reporters what everybody just saw happen in the hearing room. The big celebrity is Lanny Davis, the White House counsel in charge of scandals (not his official title). Surely you've seen him on *Meet the Press*? *Crossfire*?

Reporters were still abuzz about John Huang's offer, made yesterday, to testify to the committee, if it grants him limited immunity from prosecution.

"I'm on background now," a White House official said to a clutch of reporters in the hallway. "I'm a White House official, okay? Now: If the lawyers can work out an offer with Mr. Huang, we're happy to have him speak. In no way will we interfere."

How about the hearings so far?

"We're taking a wait-and-see posture," said the White House official. "It's been very partisan so far. Very one-sided."

One reporter ran off with this pearl safely recorded in his notebook, then quickly returned. "Lanny," he asked the White House official, "the wait-and-see thing, is that on the record?"

"That's on the record," said White House counsel Lanny Davis.

Thursday, July 10

Sullivan was back today, as the committee's only witness. I scoured the papers this morning and—more disappointment—found only one reference to Sullivan as "boyish." But that was in the *New York Times*, which is, after all, the newspaper of record.

The line of spectators waiting to get into the hearing room gets shorter every day. About 150 chairs are set up in the back of the room, two dozen or so reserved for White House officials and party hacks, the rest for concerned citizens. But so far I've seen the gallery full only once, briefly, on the morning of the first hearing. Apparently people figure something isn't worth seeing in person if you can't watch it on TV.

The press tables have thinned out, too. The room has begun to look like a depopulated village after a great plague has passed through. But the photographers were out in force, and as always they rushed to capture Thompson as he lumbered into the hearing room and took his seat. They do this every morning, and you can't help but wonder: How many pictures of him do they need? With a dozen cameras whirring and flashing six feet in front of his face, he settled in, withdrew papers from a folder, and adjusted his microphone, doing an uncanny impression of a man who does not have a dozen cameras whirring and flashing six feet in front of his face. Should we be surprised by how natural he seems? This is a man who has acted with Sissy Spacek. With *Bruce Willis*.

As the questioning of Sullivan meandered on, senators wandered in and out. I will be charitable, and assume this chronic truancy accounts for the unbearable, the excruciating repetitiveness of the questions they ask. What we have here is a failure to communicate. Senator Collins wanted to know whether there wasn't extraordinary pressure applied to the DNC to get John Huang hired. Sullivan said no. Senator Nickles was just wondering: Wasn't the DNC under extraordinary pressure to hire Huang? No, said Sullivan. Minutes pass, then hours. Senator Levin wanted to know: Are the Republicans worse about fund-raising than Democrats? Affirmative, said Sullivan. Senator Torricelli thought that, in the final analysis, Republicans are really much worse. Would Sullivan agree? He would.

They will never get on MSNBC if they keep this up.

And then, suddenly, miraculously, there was . . . news! The committee released copies of an overseas wire transfer to someone called Yogesh Gandhi, a shady operator who was apparently broke but who nevertheless donated $325,000 to the DNC. The wire transfer came from another shady operator. Here at last was solid evidence of illicit foreign money being funneled into the presidential campaign. Unfortunately for the committee's story line, the money came from Japan, not China.

Out in the hallway, during a break, some reporters cornered a pair of committee lawyers. Was there some suggestion that this Japanese money really came from China, in furtherance of the Chinese Plan that Thompson had warned us about in his bracing curtain-raiser?

"No," said a lawyer.

Oh. But doesn't that sort of undercut the idea that the Chinese were behind all this? The reporters' chagrin was unmistakable. I feel like a guy who thought he was going to see an Arnold Schwarzenegger movie, only to discover his wife has brought him to *The English Patient*.

"Look," the lawyer said, exasperated. "There's no suggestion that some big guy choreographed all this. We're just trying to pull the curtain back on the system. There's no suggestion that all these transactions were part of some grand plan. This isn't a prosecution. There's no case trying to be made here. There's no conspiracy theory being promoted."

The other lawyer could sense our disappointment.

"Stay tuned," he said, encouragingly.

I will. I have to, it's my job. But what about everybody else? ♦

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The Ten Commandments and the Constitution

By Dennis Teti

The Supreme Court and Congress are on a collision course. Three times in the final week of its term, the high court struck down laws passed by overwhelming congressional majorities, championed by the president, and defended by the Justice Department. This is historically unprecedented. Even during the last great confrontation between the branches in the 1930s, anti-New Deal justices never overturned so many federal statutes in so short a time.

Judicial resistance to popular rule through Congress is most starkly displayed in *City of Boerne* v. *Flores*, in which the court overturned the Religious Freedom Restoration Act (RFRA). Justices Kennedy, Stevens, and Ginsburg joined hands with Justices Scalia and Thomas and Chief Justice Rehnquist in the 6-3 ruling, which insisted that the court, not Congress, has "the final word" in interpreting the Constitution. Congress passed RFRA in 1993 at the behest of a large coalition of religious groups unhappy with a 1990 Supreme Court decision, *Employment Division* v. *Smith*. The court had sided in that case with the state of Oregon, which denied unemployment benefits to workers fired for using the hallucinogenic drug peyote. Because the workers used the drug for religious purposes, they claimed the state had violated their First Amendment right to freely exercise their religion. Both mainline and fringe religious groups worried that *Smith* would pave the way for local and state governments to violate their free-exercise rights, so they called on Congress for relief.

The oral arguments in *Boerne* made plain that the Supreme Court saw the case as a showdown with Congress. Anxious justices pressed the lawyers: Did lawmakers pass RFRA to express disagreement with *Smith*? And as hard as the justices pressed, the lawyers defending RFRA tried to reassure them that Congress wouldn't think of reversing the Supreme Court:

Q [from the court]: Now, you admit, I suppose, that Congress cannot come in and overrule a decision of this Court it doesn't like by legislation. . . .

Counsel: Congress cannot overrule the Court.

Q: And there's some indication that this was what Congress was all about here. . . . If *Smith* were to come up again, I guess [RFRA] would be an effort by Congress to overturn that decision. . . .

Counsel: Overturn is shorthand, but yes, to achieve a different result on similar facts under the statute than we would achieve under the Constitution itself, that's correct, but that's no different from the Voting Rights Act or from Title VII. . . . You still get the final word on what the statute means.

The lawyers defending RFRA were of course in no position to meet this line of questioning with its proper response: Why shouldn't Congress try to correct or reverse the court? Congress is a co-equal branch of government, equally entitled to interpret the Constitution that governs all three branches. The Religious Freedom Restoration Act may not have been a wise response to a particular judicial decision. But the power Congress used to enact it is legitimate. Lawmakers employed their infrequently used authority to "enforce" the Fourteenth Amendment.

The Fourteenth Amendment's enforcement power unnerves judges, because, as RFRA shows, it can be invoked to challenge their decisions. And it has always unnerved judges. In overturning RFRA, the justices harked back to their 19th-century brethren on the high court who gutted Congress's enforcement power, overturning the national civil-rights statutes of Reconstruction, such as the 1871 Ku Klux Klan Act and the 1875 Civil Rights Act. (With no embarrassment, Justice Kennedy's opinion for the court in *Boerne* cited those long discredited decisions as precedents.) The modern civil-rights revolution restored Congress's enforcement power, and since the 1960s the court has sanctioned measures that depend on that power, including the Voting Rights Acts of 1965. With one insignificant exception, until the court's actions last month, every law enacted in this century

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under the Fourteenth Amendment's enforcement provisions has been upheld.

Congress's enforcement power also makes some conservatives uncomfortable because of its potential to expand the power of Washington. RFRA, which limited the powers of state governments, was controversial for that very reason. But there are other ways in which Congress can use its Fourteenth Amendment powers. In fact, it can reassert its right to these powers and at the same time resurrect federalism and popular self-government at the state and local levels against a nationalizing Supreme Court. And in the wake of *Boerne*, it should do so. Lawmakers can begin with a simple, unobjectionable proposal: legislation returning to the states the right to display the Ten Commandments on government-owned property.

In 1980 the Supreme Court found unconstitutional a Kentucky law requiring that the Ten Commandments be displayed in public schools. What's the harm? "If the posted copies of the Ten Commandments are to have any effect at all," said the court, "it will be to induce the school children to read, meditate upon, perhaps to venerate and obey, the Commandments." Many would applaud such an effect, but the justices saw it as a threat to the freedom of impressionable youth. No matter how desirable the Words of God might be as "a private devotion," the First Amendment doesn't allow them on government property, they maintained.

This anti-Ten Commandments policy returned to the news recently when Alabama judge Roy Moore posted the Commandments in his courtroom. Federal circuit judge Charles Price pronounced "Thou shalt not" and issued a restraining order. The dispute remains in the federal courts.

Meanwhile, on March 5, the House of Representatives passed a resolution 295-125 stating that it was the sense of the House that the Ten Commandments "set forth a code of moral conduct, observance of which is universally acknowledged to promote respect for our system of laws and the good of society." The House resolution suggests there is a consensus across religious faiths that the Commandments should be publicly respected as the foundation of our constitutional principles. Two South Carolina counties have since enacted resolutions to post the Ten Commandments in their council rooms, and Congress is considering similar proposals for the Senate and House chambers.

Congress should not be deterred by the *Boerne* decision from moving beyond the expression of sentiments to actual legislation. It should legislate to enforce the people's right to recognize the Commandments in public. Yet, ironically, under a Constitution established to free man from oppression disguised as religion, many tremble before the high court as if it were a high priesthood. Civil libertarians who would never think of obeying ex cathedra decrees from Rome unhesitatingly declare there is no appealing a decision of the Supreme Court.

Both history and proper constitutional understanding teach a quite different lesson. It's true that the Constitution endows the three co-equal branches of government with different functions. Congress's responsibility is to enact laws; the president approves and enforces the laws made by Congress; the Supreme Court decides "cases" according to the laws made by Congress. But the Constitution does not grant any single branch power to interpret it in a way that the others must accept. On the contrary: Congress itself interprets the Constitution each time it passes a law, just as the chief executive does when he signs and administers those laws, and the justices do in each case they decide.

Since 1787 the Supreme Court has found some 139 national laws unconstitutional. Most of these judgments were of no great political moment. So Congress avoided provocation and did nothing. Occasionally, though, the lawmakers have challenged the court and have made the challenge stick. Here are a few examples:

¶ In *Dred Scott* v. *Sandford* (1857), the Supreme Court declared that Congress could not ban slavery in U.S. territories. As president, Lincoln asked Congress to overrule the court, and in 1862 (three years before the Thirteenth Amendment) he signed a statute abolishing slavery throughout the territories.

¶ After the court in 1918 overturned a federal child labor law, legislators responded by imposing an excise tax on the products of child labor. In 1922 the court rejected that measure as well. On a third try, Congress overrode both decisions by passing the Fair Labor Standards Act of 1938. In *U.S.* v. *Darby* (1941), the justices yielded and conceded Congress's power to regulate.

¶ In 1959 the court ruled that the Fourteenth Amendment allowed states to require English literacy tests for voters. Congress, deciding the tests violated that amendment's equal protection clause, used its enforcement power to ban them. In *Katzenbach* v. *Morgan* (1966), the court backed off and set aside its earlier ruling.

¶ The court in *Goldman* v. *Weinberger* (1986) upheld Air Force regulations prohibiting Orthodox

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Jews from wearing yarmulkes on duty. Congress enacted legislation overriding that holding and instructed the Air Force to permit the wearing of religious apparel in uniform.

Religious-liberty and other social-issue cases, of course, usually involve state, not federal, laws. Why are states and local communities controlled by restraints that apparently limit only the national government ("Congress shall make no law . . .")? Since 1925 the Supreme Court has read the Fourteenth Amendment to mean that the "liberty" mentioned in the due process clause brings state governments under the Bill of Rights. In other words, when state laws regarding religion and other social issues are overturned, the courts always assert that they violate the Fourteenth Amendment, not just the Bill of Rights.

For more than 60 years the courts have hung on this fragile constitutional thread their most controversial decisions—relating to school prayer, rights of the accused, judge-imposed taxes, obscenity and pornography, censorship, abortion, school busing, public assistance to religious schools, homosexual rights, and voter-passed referenda. That single thread is the claim that the Fourteenth Amendment prevents citizens from enacting state and community laws to protect America's culture and moral character.

The fragility of this theory as a judicial weapon became clear once Congress's enforcement power was restored to pass the Voting Rights Act of 1965. Under the Fourteenth Amendment's language, Congress has the same power to enforce not just equal-protection but due-process rights. That is the power the Supreme Court disputed in *Boerne*, but ultimately no one but Congress can say in what manner its power to enforce these rights should be used.

Indeed, by hanging its controversial decisions precisely on the Fourteenth Amendment, which includes a grant of authority to Congress, the Supreme Court invites Congress to intervene on the same terrain. And Congress should intervene, not to place new limits on states, but to restore self-government in states and local communities. The Ten Commandments issue is a perfect starter. Congress could pass a "federalism shield" law, declaring that the display of the Decalogue on state and local government-owned property is among the liberties protected under the Fourteenth Amendment's due-process "liberties." The statute would explicitly recognize the reserved right of the people under the Tenth Amendment to govern themselves by declaring that the states may use their "police powers" to regulate these displays. This would restore the traditional right to acknowledge the Commandments in public life that people enjoyed until the Supreme Court abridged it in 1980.

Would Bill Clinton sign such a measure? It's difficult to imagine him standing against a popular law to respect the Ten Commandments. The tougher question is whether the Supreme Court would sustain it. Of course the ink wouldn't be dry before the ACLU hauled this law into court. Consider, however, what the modern Supreme Court has already said about Congress's enforcement power:

¶ In 1966, the court in *U.S.* v. *Price* recognized that Congress's enforcement power is so broad that it "embraces *all* of the rights and privileges secured to citizens by *all* of the Constitution and *all* of the laws of the United States."

¶ In 1970 Justices Stewart and Blackmun and Chief Justice Burger swept earlier decisions aside in deference to Congress's superior fact-finding ability. "Congress," they wrote in *Oregon* v. *Mitchell*, "may paint with a much broader brush than may this Court, which must confine itself to the judicial function of deciding individual cases and controversies upon individual records. The findings that Congress made when it enacted the Voting Rights Act of 1965 would have supported a nationwide ban on literacy tests."

¶ In the 1980 case of *Fullilove* v. *Klutznick*, Burger and Justices White and Powell said, "Correctly viewed, Sec. 5 [of the Fourteenth Amendment] is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment."

Some court-watchers argue that the justices will strike down any law that disputes their holdings, and the overturning of the Religious Freedom Restoration Act implies as much. But except during the 1930s, the justices have usually been less willing to make war on the national legislature than to cross swords with the states.

And there's good reason for the court to be more wary of Congress than of state legislatures. The states, after all, can't raise or reduce the number of justices on the court; Congress can. The states can't change the court's jurisdiction; Congress can. The states can't make and unmake the federal court system; Congress can. The states can't impeach federal judges; Congress can.

Conservative critics of the Supreme Court should neither despair at its decisions nor propose amendments that can only weaken people's loyalty to our

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constitutional heritage. There is nothing wrong with our Constitution that time, patience, and political acumen can't correct.

The way to win a showdown with the court is first to wage one. If Congress enacts a simple Ten Commandments bill and the high court voids it, Congress can respond by passing more far-reaching measures. "Federalism shield" laws speeding up state criminal trials or restoring "moment of silence" rights to public schools come to mind. The Supreme Court might need a little time to get the message before it acquiesces in the resurrection of self-government. But over time the nation's elected legislature is inexorable—if it is willing to fight. ♦

A Benchmark for Trouble

What Happens When Reformers Try to Reform People

By Alan Ehrenhalt

Five years ago, the government of Oregon looked far into the future and made a list of goals and commitments it called "Benchmarks." By the year 2010, the state legislature declared, all two-year-olds will be immunized against contagious illness. All displaced workers will be guaranteed jobs at 90 percent of their previous pay. Spouse abuse will be cut in half, and teenage pregnancy by two-thirds. Ninety percent of the adults in the state will be doing aerobic exercises three times a week.

In January, Oregon issued a five-year progress report. It was mixed. In some fields, such as job and income growth, and clean air, Oregon was just about where it wanted to be. But when it came to crime, drug abuse, teen pregnancy, and a whole host of social problems, the situation had gotten worse. On crime and drugs, in fact, the state gave itself an unambiguous "F."

I have been fascinated by the Oregon Benchmarks project from the beginning, in part because it has spawned admirers and imitators all over the country. In the years since it started, dozens of states and cities have drawn up similar lists of long-range goals and begun keeping track of their progress. But there is something more fundamentally interesting and important about this whole phenomenon: It symbolizes the naïveté of American government at all levels in the 1990s.

There are problems of public management and funding, and there are problems of human behavior. It is in our interest to appreciate the difference. The benchmark movement doesn't appreciate the difference, and that is its signal flaw.

Managerial solutions are relatively easy. Immunizing first-graders doesn't require that they think or behave in any particular way. It requires only that the government provide the serum and the nurses, and that the kids show up at school. But problems involving human behavior are far more difficult: Immunizing those same children against having babies at the age of 14 involves transforming their ideas, beliefs, and daily conduct. That isn't just a harder task—it's a task from an entirely different conceptual universe.

In fact, I would argue that we would all be better off if every discussion of public policy solutions started with one simple question: Does this solution require the transformation of human conduct in any significant way? If it does, it belongs in a separate pile. And it should go there with the clear understanding that, based on what we know of history and human nature, it is a long shot.

The intractability of perverse human behavior may seem an obvious point—too obvious to make much fuss over. At some level, I suppose most policy makers understand it. But often they don't act as if they understand it, and that has been an endless source of confusion, frustration, and ultimate public disillusionment when programs that promise to cure intractable social ills fail, as they inevitably do.

Government has always sought to manipulate human behavior, of course. Indeed, there have been long periods in modern history when it has seemed interested in little else. Five hundred years

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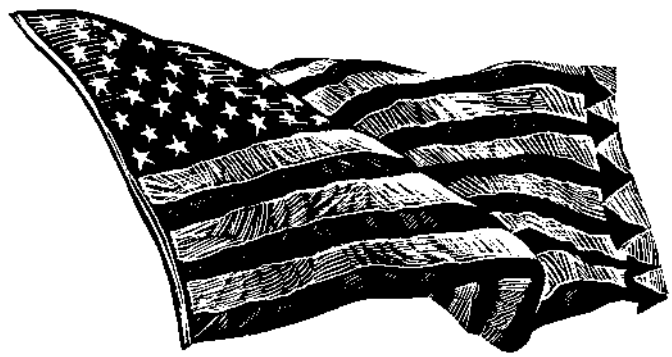
ago, the majority of laws on the books in any community in Western Europe were called "sumptuary laws." They were aimed at telling citizens what they could wear, what they could eat, and how to conduct the routine of daily life in ways that did not constitute a violation of public decency, as defined by the local elite.

Sumptuary laws were about behavior; their aim was to control it, not to reform it. The governments that passed them didn't mind if people harbored secret desires to dress inappropriately. What mattered was that they not do so in public, on the street. The elevation of human moral standards was a task for the church, not the city council.

Well into this century in America, the relationship of government and personal behavior was fundamentally what it had been in medieval Europe—a matter of commands and controls. The ultimate expression of this fact was the Prohibition experiment. Prohibition has always been described as a moral crusade, and certainly it possessed an element of that. Its advocates would have been delighted if, in the absence of legal alcohol, Americans had lost their thirst and had come to appreciate the evils of intoxication. But Prohibition was not fundamentally an attempt to educate or motivate; it was an effort to stop people from drinking by taking away the product. It was an attack on supply, not demand.



Kevin Chadwick

Even the New Deal, which was the harbinger of every revolutionary change in American governance this century, was almost exclusively an experiment in economic change. Its point was to give people money, not to teach them how to spend it. Unemployed workers were presumed willing to work at almost any job if the government could create one for them. The welfare and housing subsidies we now link to the conduct of the recipient were presented in their initial New Deal phase as economic initiatives. Welfare was a widows-and-orphans program, an emergency expedient to bail out families that, through no fault of their own, were temporarily missing a breadwinner. The public-housing programs of the 1930s were designed as an attack on the physical environment of poverty. The authors of these programs believed that once the buildings were fixed up, behavior would take care of itself.

And they continued to believe that right up through the construction of the urban high-rise housing projects in the 1950s. In 1957, when the city of Chicago leveled a big chunk of its Near North Side to build Cabrini-Green, not only the planners and the politicians but the media shared a single assumption: The people who moved in would now commence living conventional middle-class lives. Cabrini-Green, the *Chicago Daily News* exulted, was "a new mighty city of concrete and steel pushing off the shell of decadence."

The 1960s are the dividing line on this issue, as on so many others. In some ways, the Great Society programs of those years were merely expansions of New Deal thinking, efforts to broaden the scope of economic redistribution beyond the aggrieved working class and into the precincts of the truly destitute. But at its root the Great Society was something more, something new. It accepted the "culture of poverty" thesis—the idea that being poor gradually stripped people of their ability to function with competence in the wider world. It assumed that government, especially the federal government, possessed the tools to reverse this process. And it was not shy about saying so.

"The knowledge and methods of the behavioral sciences," a report of the National Academy of Sciences proclaimed unequivocally in 1968, "devoted as they are to an understanding of human behavior and social institutions, should be applied as effectively as possible to the programs and policy processes of the federal government." The ideas embodied in that report, and in countless others at the time, were the first step toward the indiscriminate conceptual confusion of reforming human souls with the much simpler tasks of improving technology, administration, and management.

Most of the Great Society planners who grew disillusioned with the effort did so for a common reason: They felt it made unwarranted assumptions about society's ability to improve human conduct. Charles Morris, who worked in the Model Cities program and then testified eloquently to its failure, expressed this

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point better than anyone. "The anti-poverty program," Morris wrote, "was premised on the assumption that poverty existed primarily in the heads of the poor. It emphatically rejected the notion that the way to solve poverty was to give people money; it aimed instead to change people's behavior. Poverty was not so much a lack of money, but a 'condition of helplessness, hopelessness and despair.'"

Morris and other chastened veterans of the 1960s didn't necessarily disagree with the "culture of poverty" idea. They merely came to appreciate the monumental overconfidence with which the Great Society operated. It was assuming the existence of solutions that the society as a whole had not yet discovered.

This was an error of more than historical significance. Thirty years later it still distorts judgments and policies.

For more than a decade now, for example, the Ford Foundation has officially been seeking out new ideas at all levels of American government. Since 1986 it has written more than $10 million worth of checks in support of programs it deems successful, innovative, and easily replicated by other jurisdictions. The Kennedy School at Harvard helps make the selections, and each program selected gets $100,000. Some years there are 1,000 applicants; by the end of 1996, there had been 110 winners.

Taking a look back at those 110 choices is an enlightening exercise. For the most part, they fit into two rather easily defined categories. There are the technical and managerial innovations, most of which have spread quickly and successfully to places all over the country. Then there are the experiments in behavioral change, few of which have had any lasting impact.

In 1988, for example, the Ford Foundation bestowed its generosity on the St. Louis County Police Department, the Kentucky state court system, and the public libraries of Vermont. St. Louis County had figured out a way for patrolmen to dictate their arrest reports into a telephone network, rather than having to enter them laboriously in longhand. Similarly, the Kentucky courts had been pioneers in making video records of trial proceedings, eliminating the traditional dependence on expensive and sometimes unreliable stenography. Vermont had made the catalogs of libraries all over the state available for computerized searching by librarians or ordinary citizens.

Those three governmental innovations have several things in common. In the great scheme of things, they are pretty minor. They do not deal with human conduct in any important way at all. And they have spread like wildfire. These are things that governments all over the country have now learned to do as a matter of routine, and to depend on.

That same year, 1988, the Ford Foundation also awarded $100,000 to Project Match, an ambitious program that took hard-core welfare recipients in Cabrini-Green and aimed at motivating them to find stable employment. Project Match prided itself on accepting the most difficult cases—long-term public-aid dependents who were difficult even to find, let alone place. It was an intensive personalized counseling service that matched up volunteer case-workers with 400 Cabrini-Green families.

There is no question that in its 10 years of existence, Project Match has helped dozens of people. It can provide impressive anecdotal accounts of individual success. But it has made no dent in welfare dependency or joblessness at Cabrini-Green, not to speak of Chicago or inner cities in the rest of the United States.

Project Match is creative and well-meaning. But if it were a true innovation, it would now be in use in hundreds of places, as is the computerized library catalog pioneered by Vermont. The problem it set out to deal with would be well on the way to solution. The fact that the problem is worse than ever is no comment on Project Match or the decent people who have been trying these things in cities all over the country in the past generation. It is a comment on the fact that motivating hard-core welfare recipients is a problem of behavioral reform beyond the current capacity of society as a whole. It has nothing whatever in common with video court reporting or computerized library catalogs.

To say all this is not to claim that legislating behavioral change is flatly impossible. The history of this century offers a whole series of instances in which government influenced personal conduct by manipulating the incentives and disincentives under which that conduct took place. Even Prohibition, for all the abuse we heap on it, succeeded in its primary goal. Americans consumed less alcohol in the 1920s than they had consumed before. The incidence of liver disease went down. Of course, most of us would say now that it wasn't worth it, for a whole variety of reasons. But it can't be dismissed as ineffective.

In a more positive way, the Civil Rights Act of 1964 is widely assumed to have changed the way people of different races treated each other and felt about each other in the South. After a couple of decades of being required by federal law to sit next to black people on buses and in restaurants and in public schools, white southerners began saying more tolerant things about them in polls and surveys. No doubt some of this was a matter of saying what they thought the researchers

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wanted to hear. But it would be obtuse not to give at least a little credit to the civil rights law.

The 1996 federal welfare law is the most recent effort to change fundamental aspects of human behavior by altering the incentive system. It assumes that those who have depended on welfare, confronted with the elimination of permanent subsidies for idleness, will find jobs. The likelihood of this project's succeeding is an issue on which reasonable people may at this point still differ. But it might work. It's not crazy to hold out some hope.

In any case, it's beyond dispute that government does sometimes induce people to behave. But when its object is to improve them on the inside, to motivate them to be good, to teach them to think about the long run, to stay away from drugs and crime and promiscuity, and sit quietly in school and listen to the teacher, then it is playing against very tough competition.

A decade or so ago, when George Latimer was mayor of St. Paul, Minnesota, he summed up his philosophy of government in two sentences that would be difficult to improve upon: *Don't look for problems. Look for opportunities.* Teenage pregnancy and terrible test scores may be the most frightening conditions in an urban community, but that in itself doesn't make them the most appropriate targets for benchmark commitments or innovative experiment. The best target may be graffiti, or classroom vaccination, or even computers in the state library system. The best target is something the society knows how to deal with.

The most intractable problems of American society are entitled to some respect—more than we typically give them. Recognizing that fact is the beginning of public-policy wisdom. ♦

This Isn't Only a Test

By Chester E. Finn Jr.

The saga of national education testing won't surprise those who have watched other reformist projects turn sticky and foul after brushing against the twin tar babies of the federal government and the education establishment. Once again, a worthwhile idea for upgrading American education is being muddied beyond recognition.

The tale begins in the 1980s, when governors like Lamar Alexander and Bill Clinton realized that the effort to reform U.S. schools and boost student achievement would never get far until clear academic standards were set, solid tests put in place, and real accountability mechanisms installed. It's impossible to make a successful journey if you cannot state your destination and have no markers of progress along the way. Nor should one expect much from school-choice policies—vouchers, charter schools, and the like—absent clear information for parents on the performance of individual schools.

The federally funded testing program called the National Assessment of Educational Progress (NAEP) had long reported only nationwide averages rather than offering a sense of the differences among the various states and school districts. By 1988, NAEP was changed to permit state scores and comparisons between states; and in order to distance it from the tar babies, an independent governing board was appointed to oversee the testing. For two years, I had the privilege of chairing that board, and we sought to ensure that the assessment content was sound, the tests challenging, and their results reported in relation to standards (how well *should* kids be doing in 8th-grade science or 4th-grade reading?) instead of simple averages and percentiles.

In 1989, George Bush and the nation's governors met in Charlottesville. There they set ambitious national education "goals" to be attained by century's end. Gov. Clinton, especially, toiled into the wee hours to draft them. Yet one essential ingredient was still missing: standards-based tests that would allow for comparisons between school systems, schools, and schoolchildren. A governor could find out from NAEP how his state was doing but not how Memphis was performing as opposed to Nashville, much less Nashville versus Milwaukee. Nor could the Robinson family see how little Jonah and Jonetta were doing compared with how they ought to be doing, or

Chester E. Finn Jr.'s "Education: The Era of Big Government Is Still Here" appeared in our June 2 issue.

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whether the Franklin School had higher achievement than the Jefferson.

There are hundreds, even thousands, of extant tests, but none of them was—or is—quite right. The "standardized" kind that most school systems use doesn't actually contain any standards—and is prey to the notorious "Lake Wobegon" effect whereby everyone is told he is above average. State testing programs don't allow scores to be compared across jurisdictions. Even NAEP is still barred from reporting on units smaller than whole states. College entrance tests such as the SAT and ACT aren't taken by everyone—and in any case they are no help in the elementary and middle grades.

U.S. testing in 1997 resembles a faulty model-airplane kit in which the pieces cannot be fitted together. Yet for those who believe in standards-based tests, test-based accountability, and results-based education reform, this is a plane that needs to fly.

In 1991, Bush and then-education secretary Lamar Alexander proposed a new nationwide testing scheme called "American Achievement Tests," but Congress would have none of it. NAEP's governing board suggested that NAEP tests be made available for district and school-level testing, but the education establishment—and commercial test publishers—rose up in outrage. The independent board was punished for its hubris in 1994, when Congress stripped away much of its independence.

Re-enter Bill Clinton, first with a wretched program called Goals 2000 that was long on federal control of state and local reform plans but short on testing and accountability, and then, just this January, with a proposal for national testing.

Initially, Clinton's January proposal seemed modest and workable. He offered the states voluntary tests of 4th-grade reading and 8th-grade math—nothing more—based on the tests and standards already in use by NAEP at the national level. At little cost to themselves (there would be a federal subsidy, of course), states could use these tests to find out how their school systems, schools, and children were doing. The tests would also be accessible to individual communities, private schools, someday even parents.

Gov. John Engler immediately signed Michigan up, and several other states have since agreed to join. Clinton is barnstorming the land to recruit more. Judging from the many presidential events and speeches in which it now stars, the testing plan has become one of his top education priorities.

Alas, the plan had one surpassing flaw. While it was said to be "based on" NAEP's carefully developed tests and standards, Clinton was not actually going to use those tests and standards, nor did he propose to entrust the new venture to the board I once chaired. Rather, the Department of Education—without explicit congressional authority—would use discretionary dollars to launch the test-development process by contracting with a private organization. The independent board would control neither test content nor standards. Instead, the executive branch would.

Immediately, the scholar Diane Ravitch, the Education Leaders Council (a group of state education officials who don't toe the establishment party line), and I urged the administration to reconsider. We said that national testing had merit—but that anything so sensitive as these tests must be run at arm's length from the government and education-establishment tar babies. It also seemed that Congress should have something to say about the arrangements for so momentous a shift in American educational federalism.

INITIALLY BILL CLINTON'S NATIONAL TESTING PROPOSAL SEEMED MODEST AND WORKABLE. ALAS, IT IS NEITHER.

There has been no effort to address our concerns. The Education Department has been rushing to put the original plan into operation. The independent board has been marginalized. Congress has been stiffed. Critics have been ignored. And to the extent that one can forecast real harm from procedural missteps, damage lies ahead. As often in education-reform efforts, the procedure has been hijacked by the tar babies. The hijacking takes the form of contracts that are already being signed with neither congressional approval nor independent oversight.

The main contract so far is with the Council of Chief State School Officers to develop test specifications. "The chiefs," as they're known in educator-land, are the Washington-based association of state superintendents, and they form one of the establishment's most change-averse crews. The chief of the chiefs, Gordon Ambach, is a former New York state commissioner of education, staunch advocate of a larger federal role in education—a key backer of Goals 2000, for example—and a veteran federal grant-getter. He and his group have an ancient and cozy relationship with the Education Department and can be counted on to do its bidding, down to such particulars as Spanish-language math tests and other worri-

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some wrinkles in the Clinton plan.

A Berkeley, Calif., consulting firm has been engaged to help the chiefs with this project. They've named three new panels: two "content committees" to shape the reading and math exams and a "National Test Panel" to advise on the whole process. (A fourth committee, to furnish "technical" advice, will appear any day now.) Several meetings have been held, and draft specifications are due this month. By September, the Education Department will let contracts for actual test preparation. A huge consortium of private test-makers and publishers is positioned to get the job—at a pricetag rumored to be near $50 million. The plan is to have these tests ready to roll in 1999.

For a new federal project, it's moving extraordinarily fast, apparently so that binding commitments can be made during the current fiscal year and before Congress cranks up to do anything. (House education-committee chairman Bill Goodling, himself a former school superintendent, dislikes tests that allow children and schools to be compared and has tried—so far without success—to attach a killer amendment to various bills.)

In truth, it's moving far too quickly for something as momentous as national tests in a country that never had anything of the sort before. But haste isn't the main problem. What's most alarming is that these tests will be creatures of the education establishment and prone to its postmodern curricular faddishness.

Kevin Chadwick

Consider these clues:

First, the contractor is in charge of its own advisory committees. Rather than an independent board that sets policies and tells the contractor (and the executive branch) what to do, the chiefs—in consultation with hierarchs at the Education Department—have their own handpicked panels, yet remain free to ignore them.

Second, the committees are narrowly based. Whereas NAEP's independent board contains governors, business leaders, local school-board members, and parents, the chiefs' new National Test Panel consists almost entirely of experts, interest-group representatives, and—surprise—several chiefs. Nobody knows whether it is bipartisan.

Third, and most worrisome, the two subject-matter committees, for reading and math, include only educators and experts; there's not a "consumer" or employer in the lot. And while each group contains some well-regarded scholars and teachers, each is also tilted toward today's dominant educationist bias: the theory of teaching and learning known as "constructivism." That's the approach in which children are expected to create their own meaning and teachers are supposed to "facilitate" learning instead of directly instructing their pupils in worthwhile knowledge. Constructivism is heavy on "critical thinking" and "problem solving" but light on specific knowledge and basic skills. It doesn't so much care whether you know something as whether you can look it up. It doesn't judge certain information to be important and certain books to be best, but, rather, partakes of fashionable academic relativism. It's friendly to "whole language" reading, wary of systematic phonics; it asks children to guesstimate the solutions to math problems and discounts the importance of correct answers. Tests grounded in this philosophy will be applauded by the ed-school professoriate and the deconstructionists, but they won't test the sorts of things that a governor like Engler—or, once, Clinton—really wants the children of his state to know.

Am I reading too much into lists of panelists? Probably not. People I respect in math and reading who have eyeballed these lists use words like "disaster" to describe the tests and standards that they expect to emerge.

If national testing is headed that way, the country would be better off without it. Congress should apply the brakes before a wreck occurs. Then maybe—just maybe—let a different driver take a turn at the wheel. If a fully independent version of the board I chaired in the 1980s were put in full charge, the risk of crashing would be reduced. Alternatively, the whole idea might be privatized, turned into a commercial (or philanthropic) testing program that picks up Clinton's basic concept but with no government entanglement or federal funds. We *still* need a means to compare achievement across state borders. But it's worth doing only if the twin tar babies can be avoided. The one thing indisputably worse than no national tests would be bad national tests. ♦

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The Sinking of Broadway

A Burst of Enthusiasm for the Theater Goes Bust

By John Podhoretz

This year, the Tony award for best musical went to a show about a calamitous real-life event in which 1,500 people died by drowning in the North Atlantic. It won out over a musical about prostitutes and pornography in 1970s Times Square, another one about the weird Depression-era events called dance marathons, and an avant-garde "carnival mass" performed by bizarre-looking puppets.

These four musicals—*Titanic*, *The Life*, *Steel Pier*, and *Juan Darien*—were part of a watershed season on Broadway. After several years in which you could literally count the new musicals on one hand, American musicals especially, a slew of them opened in one year. Besides the four nominees, there was a revue of Johnny Mercer songs called *Dream*, a version of *Twelfth Night* set in Harlem to Duke Ellington music called *Play On!*, and a wannabe *Phantom of the Opera* called *Jekyll and Hyde*. And revivals were opening with clockwork regularity too, as *Annie*, *Candide*, and *Once Upon a Mattress* all followed in the wake of the triumphant rediscovery of the little-known 1975 show *Chicago*. All in all, tens of millions of dollars—maybe as much as $75 million—rained down on Times Square, an infusion of cash the likes of which Broadway hadn't seen since the late 1960s.

The amazing recovery of New York has brought tourists to the city by the planeload, filling hotels; the drop in crime has made Broadway a delightful, colorful, and unthreatening place to visit. The previous year, Broadway proved it could ignite a little spark in the popular culture with two unexpected hit shows—*Rent* and *Bring in 'Da Noise, Bring in 'Da Funk*. Just as New York has saved itself, so too, it seemed, might the Broadway musical, which is, after all, the only art form named after a New York city street.

Didn't happen. In fact, that $75 million is basically going straight down the drain. *Steel Pier*, *Juan Darien*, *Play On!*, and *Dream* have closed, taking something like $15 million with them. Despite winning the Tony, *Titanic* is not going to have a smooth passage and will probably lose its $10 million capitalization. *The Life* won't have a long one. *Jekyll and Hyde* is going to struggle. And the revivals, most of them poorly reviewed, have all been disappointments.

If even two of these shows had hit it big, then the new Broadway money might have taken root and generated more capital, leading in turn to more shows, leading in turn to a really lively new American theater. But the Broadway boomlet has generated so little enthusiasm, excitement, and critical acclaim that it has almost certainly died aborning.

Is this a tragedy—the death of an art form due to lack of interest? Hardly. These shows deserved what they got, and so did their creators. Because, to put it plainly, who wants to go watch a cast of 50 sing a big production number while the Titanic sinks? What genius had the bright idea of featuring the graphic beating of a hooker on stage in *The Life*? And why on earth did anybody think it would be entertaining to watch unattractive characters dancing themselves sick for a few desperately needed Depression-era dollars in *Steel Pier*?

Each of these shows is (or was) such a failure that it is instructive to examine them individually.

Titanic begins magnificently, with a bravura 10-minute number in which the cast celebrates the beauty and ambition of the enormous ship just about to make its maiden voyage. After that, it's all downhill, quite literally—for most of the second act, the set is tilted to suggest the ship's eventual demise, a very distracting effect. There's also a lot of boring stuff about how the poor people on the boat don't have it as good as the rich people. Then, three hours after we first entered the theater, everybody who went to the bottom of the North Atlantic springs back to life and reprises the cheerful anthem with which the show began. This is surely intended to be ironic—the show is about what happens when man tries hubristically to control that which he cannot control, after all. But the truth is we are so relieved to hear the pretty tune again that we exit the theater humming it.

The Life has a soulful score by Cy Coleman, a distinguished man of the theater whose brilliant 1991 show *City of Angels* will probably prove to have been the last of the great Broadway musicals. *City of Angels* was directed by Michael Blakemore, who also directed *The Life*. And there the

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similarity between the two shows ends, because while *City of Angels* was a delightful mystery about a 1940s novelist-screenwriter and the gumshoe detective he created, *The Life* is about whores. And not just any whores—whores who sing self-righteously about how "it's my body and my business." (If you start hearing this anthem at pro-choice rallies, and you will, just ask those in attendance if they know the song is really about prostitution.) Two wonderful performances by Lilias White and Chuck Cooper (both Tony winners) cannot disguise the fact that it's hard to care for, be amused, or even mildly diverted by the romantic and professional difficulties of hookers and their pimps.

Steel Pier was the first show written by John Kander and Fred Ebb following the triumphant return of their 1975 *Chicago* to Broadway. They can really craft a sassy, infectious, bitingly clever song, but with the exception of one number in *Steel Pier* called "I'm Everybody's Girl," the numbers were dispirited. And why not? The show is about people who dance in agony for 400 straight hours, particularly a once-famous chanteuse now reduced to trying to win the dance marathon to reestablish her career. She meets her one true love—and he's dead, it turns out, a barnstorming pilot who dies at the beginning of the show and is, thereafter, a ghost.

Hello? This is the *Broadway musical*? Alas, yes, this is the Broadway musical. May it rest in peace.

Photofest

Cast members from Cy Coleman's The Life

Musicals are stupid. There's no getting around it. This is an art form in which people talk for a while until they suddenly start to sing, whereupon other people they don't even know emerge from nowhere and begin to sing with them. Then they all dance for a while. Then they all try to sing and dance simultaneously even though they're already panting because the dancing takes a lot of energy. Finally they come to a big stop, they freeze in place—and then, when the applause has died down, start talking *again*. Absurd. More than absurd. At any moment, the whole set-up can come to seem so ludicrous that you feel like you won't be able to take it for another second. And I write as someone who has been mad for musicals most of his life.

Those who would defend musicals as an art form point out that opera and ballet feature preposterous behavior as well, and yet only a philistine would judge them stupid. The defenders are wrong. The difference between musicals on the one hand and opera and ballet on the other is that opera and ballet feature people doing one thing and one thing only. In opera, they sing (even if there's an occasional dance break); in ballet, they dance (even if the orchestra is playing a great piece of music). Both forms are purely stylized. But musicals mix stylized activity with naturalistic activity—people who sing and dance, which we don't do, and who talk conversationally, which we all do.

The trick with an art form that is inherently stupid, as musicals are, is to embrace the stupidity, not to flee from it. To revel in it. To milk it for all the stupid pleasure it can afford. That was the way things were with the musical during the years in which it was so alive, so vibrant, and so popular that 70 of them were staged every year on Broadway and at any given time you could find a show written by Richard Rodgers and Lorenz Hart, or Cole Porter, or Irving Berlin, or George and Ira Gershwin, or Oscar Hammerstein and Jerome Kern, or Vincent Youmans and Irving Caesar, or DeSylva, Brown, and Henderson.

The years were the 1920s and 1930s, and the shows for which these men wrote songs were self-consciously silly, throwaway things. Their plots made as much sense as one of the summer action movies that so enthrall audiences today, which is to say, they made no sense at all. Just as the action movie's plot is merely a device used to string together a certain number of shoot-'em-up sequences, the musical's plot was simply a way to string songs and comedy bits together featuring star performers whose personalities and voices

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were so large they could fill a 2,000-seat theater without microphones.

Today, these shows are, for the most part, impossible to perform. Their humor is so timebound that it seems utterly incomprehensible; a recent concert-style performance of one of the few enduring musicals from the 1930s, Rodgers and Hart's *The Boys from Syracuse*, was rife with casually violent physical comedy I found painful to sit through. The performers who starred in shows like *The Boys from Syracuse* would never have made it in contemporary show business; their vocal and physical mannerisms would strike most of us as horribly obvious, even screechy.

But, my God, the songs! There are relatively few American standards that were *not* introduced on Broadway in these years—or in a 1930s or 1940s movie musical, usually featuring Fred Astaire, the greatest of the Broadway musical stars. True, not every Rodgers and Hart or Cole Porter or Irving Berlin show included a song that would become a standard, but these men were working at such a furious pace that if one show were a dud there would soon be another that might improve on it.

Part of the reason that the shows themselves were so weak is that their makers were producing product, not art. They were there to entertain people and to fill seats, and they filled seats with great songs. In the 1920s especially, records were not yet a mass medium, and radio was barely extant; if somebody told you about a great song he had heard, you had to either go to Broadway to hear it yourself or buy the sheet music and play it for yourself.

Songs were paramount, songs and jokes and stars, and no demand for a consistent plot was going to get in the way of that. In the midst of *Oh, Kay!*, Gertrude Lawrence sat in the middle of the stage singing "Someone To Watch Over Me" to a rag doll. In *Leave It to Me*, Mary Martin showed up on a Siberian ice floe and brought the house down with "My Heart Belongs to Daddy." And so it went.

It might sound like heaven for a songwriter, but it was by all accounts a frustrating environment for the creative talent on Broadway. They chafed at the inanity of the form and were infuriated by their lack of power. Many Broadway composers, Richard Rodgers especially, had artistic ambitions. They didn't want to write songs, but "scores"—an integrated series of numbers with themes, counterpoint, repeated melodies, and the like. But the dominant figure in the world of the Broadway musical was the producer, not the artist. It was the producer—Florenz Ziegfeld, George White—whose name sold a musical to the Broadway audience, and the producer felt free to stick in whatever he wanted in pursuit of a hit, including the much-hated practice of "interpolating" songs by other composers and lyricists. Shows would occasionally stop dead so that a beloved performer like Eddie Cantor could do amusing shtick.

Every now and then, one of the artists would take control, but usually by writing something that was not really a musical. The two masters of the Broadway operetta, Sigmund Romberg and Victor Herbert, mostly got their way. So did Jerome Kern and Oscar Hammerstein with *Show Boat* and the Gershwin brothers with *Porgy and Bess*. But these shows were more akin to opera than the musical (*Porgy and Bess* especially), and in the 1930s even a philistine like Flo Ziegfeld was intimidated by the idea that he might stand in the way of a High Art Form.

Over time, the balance of power shifted away from the producers to the creators. The songwriters grew in fame as radio and recordings made their work nationally famous, and as Hollywood came calling for their talents. Rich, talented, ambitious, the creative talents behind the Broadway musical decided that they would expand the form. They would try to make it seamless, integrating song and story and dance into a cohesive whole.

The moment at which the Broadway musical's most passionate boosters think it first came to maturity was on March 31, 1943, when *Oklahoma!* premiered at the St. James Theater in New York and ushered in the so-called "golden age" of the Broadway musical. And it is true that in the years that followed, most of the shows that still please us today—the Rodgers and Hammerstein musicals like *Carousel* and *The King and I*, *Guys and Dolls*, *The Music Man*, *My Fair Lady*—were made possible by the maturation of the form. But it is

Photofest

A scene from Titanic

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also clear that, by raising the bar to include matters of serious moment, from racism (*Finian's Rainbow, South Pacific*) to colonialism (*Pacific Overtures*) to AIDS (*Falsettoland*), the Broadway musical was being asked to carry more weight than it could bear.

And so, in 1997, we get hookers and shipwrecks and not a single song you can remember a day after you've seen the show. By embracing art instead of frivolity, the Broadway musical slowly, but unalterably, and now finally, committed suicide. ♦

The Sixty-year Reich

A Bad Boy Becomes a Grand Old Minimalist

By Jay Nordlinger

The conductor Michael Tilson Thomas vividly remembers the New York premiere of Steve Reich's *Four Organs*. The year was 1973, the site Carnegie Hall. After a few minutes, "a restlessness began to sweep the crowd." There were "rustlings of programs, overly loud coughs, compulsive seat-shifting," and eventually "groans and hostile exclamations." Some tried to shout the performance down. "The audience made so much noise that, in spite of the fact that the music was amplified, we were unable to hear one another's playing. I had to mouth numbers and shout our cues so that we could stay together." At one point, a woman rose from her seat, walked down the aisle, and "repeatedly banged her head on the front of the stage, wailing, 'Stop, stop, I confess!'"

Flash-forward almost a quarter of a century. Steve Reich has, somehow, reached the age of 60 and is more a grand old man than the brash, bad-boy minimalist who so alarmed that 1973 audience. Minimalism—the lulling, stupefying repetition of brief musical phrases—has become all-pervasive in the intervening years. Reich's record label, Nonesuch, a proud purveyor of the avant-garde, the "uncommercial," and the out-right weird, has just released a 10-disc set, which charts the composer's progress from the mid-1960s to the present. Nonesuch is careful not to call it a retrospective; Reich still has new frontiers to discover, the company likes to think. But the set testifies to a movement, a sensibility, and a man, revealing much of what is laudable and regrettable in the musical culture today.

Born in 1936, Reich was weaned on traditional Western music. But at the age of 14, he made a fateful decision: He gave up the piano for the snare drum. It is not every day that a gifted kid does such a thing, for while no instrument presents broader possibilities than the piano, perhaps none presents as few as the snare drum. It was like choosing to leave Oz for Kansas. But already Reich was paring down, engaging in the act of reduction and elimination that is the hallmark of the minimalist style. Simple percussion would dominate the rest of his life.

Reich attended Cornell University, where he studied philosophy and played in a rock band. He had thought to make his name as a philosopher—and he still makes forays into that discipline—but he felt the tug of composition and enrolled at Juilliard. Later, he moved to California, where he studied under Darius Milhaud and Luciano Berio, two of the most daring composers of the day.

Soon, Reich was at the heart of the counterculture, living a beatnik existence in San Francisco. He developed a process called "phasing": You play copies of a single tape on two separate machines (which are bound to contain subtle mechanical differences); they begin in unison, but gradually go out of sync (or "out of phase") and thus give the impression of a round. Reich found a black Pentecostalist preacher, Brother Walter, down at Union Square and recorded some of his exhortations. The encounter resulted in two of the pieces that set American music on its heels: *It's Gonna Rain* (1965) and *Come Out* (1966).

It's Gonna Rain begins with a full 13 seconds of Brother Walter's rantings about the Flood. It then settles on just three words—those of the title. The words are repeated over and over, in slightly varying rhythm, for about eight minutes. These are not eight ordinary minutes, as you may spend while reading a magazine or watering the garden; they are long, punishing, headache-inducing minutes. Then it is time for Part II. The words assume the character of drumming, or tribal chants. This is primitive music, a seeming advance, but actually a return to early man, with interestingly arranged grunts and nothing so mature as melody. By the end, it is a cacophony of almost unbearable ugliness, conveying pointless distress. It turns out that the raw, untampered-with preaching of Brother Walter is the most listenable and musical part of the piece.

Come Out had its debut in New York's Town Hall at a benefit for the murderous gang known as the "Harlem Six." It too uses a single phrase—the blunt "Come out." It is something like rap music, of the crudest sort, or a record that is stuck. There is, in fact, hardly any music in it at all, as commonly understood. It is instead an exercise in rhythm and tape recording, in which a sole, ele-

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mentary pattern dissolves into nothingness. The maracas that accompany the words sound like crickets in the night, and they leaven the monotony somewhat, creating a countermonotony of their own. How does Reich know when to stop? Does it matter? Does he end the piece only when he—even he, at long last—has tired of it? Eventually, it merely fades out, like a rock song.

The Brother Walter pieces may be thought of as music to do drugs by, and, indeed, many have raised the question about Reich's early works, Do you need to be under the influence of drugs to like them? Certainly many of Reich's admirers were, and are. These "phase" experiments—fascinating, maybe, but unlovable—are somewhat like Rorschach tests, in which listeners are invited to hear what they wish. Reich recalls the time when someone told him that he heard the words "black rhino, black rhino" in *It's Gonna Rain*. Reich answered, "Well, if you heard it, that's what you heard."

In 1970, Reich went off to Ghana, where he studied drumming with the masters of the Ewe tribe. He contracted malaria and had to leave after only five months, but he brought home with him the inspiration for *Drumming* (1971), a piece for percussion ensemble that has been shortened to an hour for the Nonesuch set. Reich's defenders assert that it requires discipline to listen to the piece and that those who lack it are missing something; others might contend that it takes, instead, incuriosity, a contentment with too little for too long. Reich knows more music than his Ewe mentors, but it is unclear that he has improved significantly on them. Take a 10-minute phone call, return to the piece, and nothing of importance has changed. Reich demands patience, but music is not ideally an endurance test.

After his immersion in African music and Indonesian gamelan music (which he absorbed in Berkeley and Seattle), Reich turned inward, finding what he has called his "religious gene." "People in the 1950s and '60s," he has said, "often felt they were without a home, a complete unknown—there was no ethnic underpinning." So he "had to discover where I came from" and "wound up looking under my own bed." His first Jewish piece was *Tehillim* (1981), a group of three Psalms, sung in Hebrew. *Tehillim* still echoes the primitive, but that mode is appropriate for these songs; *Tehillim* is lovely, Westernized. Reich chose particularly well in his use of Psalm 150: "Praise Him with drum and dance, praise Him with strings and winds, Praise Him with sounding cymbals, praise Him with clanging cymbals . . ."

Kent Lemon

Steve Reich

The Desert Music (1984) also employs words—those of William Carlos Williams—but suffers from its length and suffocating sameness. True, it conjures up the gentle motions and aridness of the desert (not to mention what being out in the sun too long can do), but, like so much else in Reich, it seems like a practice piece, something a student is assigned to do before the real composition begins.

Which leads to the central problem of minimalism: its incompleteness. Minimalism is painting with a single color, showing forth a single form, ad nauseam. With the minimalists, the process, the technique, is often the main thing, and it is vulgarly exposed, at the expense of art. Shakespeare may have written his sonnets with 10 perfect syllables per line—unvarying—but the method is not the glory of these poems, and the reader scarcely notices it.

Reich says about *Four Organs* that it is "the longest V-I cadence in the history of Western music." He is no doubt right (the reference is to chords), but is this something to brag about? No, it is just *Guinness Book of World Records*, for-the-hell-of-it stuff, musically purposeless. Reich admires his fellow minimalist Arvo Pärt—by whom he says he is "knocked out"—but Pärt seems to deploy minimalism to musical (and mystical) ends, while Reich frequently seems satisfied with the marvel of his own cleverness.

In 1988, Reich scored an unabashed popular success with *Differ-*

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ent Trains, written for the Kronos Quartet, chamber-music guardian of the new. The recording of it sold more than 100,000 copies—astonishing for a "classical" album—and won a Grammy award. The piece, composed for string quartet and taped voices, relates the story of two locomotives—a perfect aural subject for Reich's style. One train bears him and his family on a pleasure trip in America during World War II; the other is in Europe and bears other children to the camps. The pleasantness of the first locomotive is drowned in the chaos and menace of the second, as an accented voice (culled from historical archives) says, "1940," and, "on my birthday." The piece is profoundly disturbing and perhaps just slightly exploitative—as with so many works that borrow from and comment on the Holocaust—but it is undeniably affecting.

Reich is at his most effective when he relaxes his grip on the technical reins and allows his imagination to roam a little. He found an audience beyond his Haight-Ashbury and SoHo core with his *Music for 18 Musicians* (1976), which is not merely an interesting but a beautiful work. He includes in it crescendos and decrescendos, plus exotica like bass clarinets, which is not a lot to ask for but in Reich is really something. Similarly, *Sextet* (1985) avails itself of a comparatively wide array of tools, playful and brooding against the ticktock of the relentless Reichian pulse. *The Four Sections* (1987) is one of only a handful of Reich pieces for orchestra. It is—unusual for Reich—unambiguously American, carrying the impress of Aaron Copland, Walter Piston, and Leonard Bernstein.

Then there is *The Cave* (1993). How to describe it? Reich himself allows, with extreme understatement, "It's a hard piece to describe." It is not quite an opera; it is not quite a documentary. It uses music—instrumental and choral—and videotaped interviews. Call it a documentary-like quasi-opera, or a multimedia expression of political-musical theater.

The piece is Reich's attempt to sort out the unyielding problems of the Middle East. (The "cave" of the title is the Cave of the Patriarchs, where Abraham, Sarah, and their descendants are said to be buried.) Reich uses the voices and opinions of Jews and Arabs in the Holy Land and of Americans back home (including black Americans and American Indians, who vent their own grievances). "I think it's an extremely politically relevant piece of work," Reich has said, which means *The Cave* has all the makings of a p.c. nightmare. But instead it is serious, searching, even enthralling.

It begins with typing on a computer (Reich's obligatory percussion). The question is then posed, Who was Abraham? The participants give their various responses. Reich both makes the music follow the speech and manipulates the speech (via tape) so that it conforms to his musical conceptions. Verses from Genesis are sung between spoken comments. One of the movements features nothing but the ambient sound within the cave (along with what the composer refers to as "an A-minor drone"); you can make out the vague, dim sounds of a guided tour underway. Many of the Americans are well known: Richard Serra, Carl Sagan, Arthur Danto, Dennis Prager, and Daniel Berrigan. *The Cave* will not often be performed—it is extreme-

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ly problematic and expensive to stage ("a glorious white elephant," Reich calls it)—but the excerpt on the Nonesuch compendium is, as is usually the case with Reich, more than enough.

Reich's most recent recorded work is among his most emblematic: 1995's *Proverb*, for voices, electric organs, and vibraphones (which are virtually omnipresent throughout Reich's œuvre). The singers have but a single line of prose, plucked from the philosopher of language Ludwig Wittgenstein. It stands for Reich's entire mission: "How small a thought it takes to fill a whole life." Reich's minimalist primitivism contains elements of Gregorian chant, and indeed *Proverb* has an exceedingly strange commissioning status: It was ordered up both by the BBC for its hundredth anniversary and by the Early Music Festival of Utrecht. So does minimalism reach back in time for the sparest sounds and thoughts, defining what is most modern by what is most ancient.

As Reich's fellow composer John Adams says, minimalism is an act of "spring-cleaning," made necessary by "a certain critical mass of complexity, beyond which lies only sterile mannerism." At moments, Reich, Philip Glass, and the other minimalists—who are typically viewed as terribly advanced and beyond the comprehension of their detractors—seem light years behind Hildegard of Bingen, the medieval abbess who thrilled to the countless possibilities of actual *notes*.

Steve Reich is unquestionably a brilliant man. He is almost a musical scientist, an inventor who knows what he is doing and can explain to anyone why (as the great composers normally cannot). He is obviously more than a New Age dabbler, trading off the elite culture's near-blind affection for anything radical. But his works lack a fundamental musicality. For him, the process is too alluring, and too cramped, even of late, when he has permitted it some breathing room. Reich is sadly vulnerable to gimmicks, to musically unnecessary (and distracting) tricks. Ravel cared about the structure of his *Bolero*, which represents a sort of proto-minimalism, but the piece is, above all—despite its bastardization by Hollywood—a work of breathtaking loveliness, shrewdly paced and concluded on time. Minimalist composers, when they are alert, step in to rescue us before the onset of coma; but Reich is habitually too late.

Reich can complain no more that he is misunderstood and unappreciated. He is a lion of the culture, a world-renowned icon, critically almost untouchable. But it must be that even those mavens who grin and bear it—who soldier through the music that other people have trouble being polite about—occasionally murmur to themselves, "Stop, stop, I confess." ♦

From Tehran to Langley

A Remarkable Book by a Pseudonymous Agent

By David Wurmser

Know Thine Enemy is the engrossing autobiographical account of a CIA agent's journey into Iran. A creature of the CIA who had spent years studying Iran as closely as a human being could without actually touching its soil, "Edward Shirley" takes a dangerous journey into its heart. He slides gracefully among languishing Iranian consulates in vibrant European capitals; defectors and spies whisking through Istanbul's dangerous construction-plagued streets; the mundane but ever-dangerous world of border smuggling; the chilling world of the mutilated but still unmercifully alive "death-wish" Iranians who gave their body parts or loved ones to a revolution long gone sour; and the doubt-ridden terror and giddy relief of an adventurer in far over his head. As he watched, and then entered, Iran, Shirley became a witness to the death of another of the 20th century's terrifying attempts to transform man along utopian lines—this one based on an ancient religion but strangely modern all the same.

Edward Shirley
Know Thine Enemy
A Spy's Journey into Revolutionary Iran
Farrar, Straus and Giroux, 247 pp., $24

Shirley travels like a spy, but sees like a romantic. He writes of Iran almost as would a poet who spent his life romanticizing love and suddenly encounters the female form unclothed for the first time—with alternating joy, confusion, ambivalence, and terror. But while Shirley may have the eye of an artist, he has the mind of a shrewd analyst of politics. *Know Thine Enemy* is, at its core, a brutally honest analysis of Iran, its Islamic revolution, the CIA, and the foreign-policy establishment that deals with the Middle East. The Iran he sees is an oil-rich country that still burns dung for heat; an ancient and rich culture whose revolution against the West was spawned by intellectuals educated in the West. He describes Iran as like an onion—telling because onions have many layers but no single core. Bereft of a core, Iran changes its outward behavior as radi-

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cally as it changes its outer layer. Change comes in Iran rapidly and thoroughly; what you see now may suddenly disappear without a trace. Iran is a country of revolutions almost from time immemorial.

The central change that concerns Shirley is, of course, the revolution of 1979, which ushered in the age of the Shiite mullahs—anti-American, anti-Western, anti-modern. But that revolution has also been misunderstood; as Shirley explains, it was not only a political upheaval, but a coup inside the world of Shiite Islam. Khomeini sought as much to upend the traditional Shiite leadership (such as placing grand ayatollah Shariat-Madari under house arrest) as he sought to suppress lay society.

Khomeini's revolution is dead. The mullahs rule a country that despises them. Iran has become an exhausted, thoroughly depressed, fatigued, and self-pitying nation that dreams of revenge against its rulers. Yet Iranians find it difficult to jettison the revolution because their shame will not allow them to admit it was a mistake. As a result, Shirley tells us, they are looking toward the United States to help them out and destroy the mullahs. And here is the ironic twist: As long as the mullahs survive, the Iranians will believe that they are still in power because the United States wants them in power; given America's unimaginable might in their eyes, only an American desire for the status quo allows the status quo to continue. This idea feeds into the everyday Iranian spirit of paranoid victimhood Shirley captures brilliantly.

In Shirley's view, the very Western ideas the Iranian revolution sought to overturn are now themselves laying siege to the revolution. As quickly and solidly as Iran became a religious totalitarian state in 1979, it may now just as quickly separate church from state. With Shiite clerics discredited even among still-religious Shiites, Iran has become a religious vacuum open to powerful influences from across the border. The West is on the road to victory and dual rollback of both the Iranian and Iraqi revolutions, *if* only the West's policymakers understood this and pressed their emerging victory.

That "if" is the second theme of *Know Thine Enemy*—there is an opportunity to change things for the better in Iran, but our government is ill suited and ill prepared to make it happen. Shirley is not writing only about Iran, but about Washington. The foreign-policy and intelligence sector of the United States has become inaccessible and confusing to most Americans, dominated as it is by an establishment of experts. This inaccessibility has generated a mystique of omnipotence, omniscience, and omnipresence that has fed the bizarre notion of an all-powerful Central Intelligence Agency that is secretly running American life. But Shirley's CIA is stale, mediocre, unimaginative, an institution immune to reflections on the consequences of policy and actions. Its director of operations brags that he hasn't finished a book in four years. Stacks of primary-source material remain unopened because almost nobody understands the language of the country. The bureaucracy is so riddled with deceit and self-delusion that it cannot possibly evaluate its own performance. Shirley's insider indictment (he retired from the agency last year) is invaluable in helping to explain the almost comic quality of the CIA's failures these past few years. And *Know Thine Enemy* is an invaluable book, all the more so because it is an extraordinary entertainment. ♦

Bar None

A Funny, If Pointless, Look at Lawyers

By Rob Long

Years ago, a local Los Angeles television station hit upon a brilliant sweeps-week promotion for its news broadcast. While the other stations were airing lurid five-part series on child pornography and satanic cults, it broadcast a week-long feature titled, simply, "Meet the Nielsen Families."

The ratings were, of course, phenomenal.

Lawrence Joseph's new book, *Lawyerland*, occupies a similar market niche. It's a book about lawyers—how they talk, how they complain, how they eat—and at $22 a throw, it's the kind of book you give to a recent law-school graduate (surely the late-spring publication date is no accident?) or to your lawyer dad for Father's Day, or, if you're really unlucky, to the Alan Dershowitz in your life.

Lawrence Joseph
Lawyerland
What Lawyers Talk About When They Talk About Law
Farrar, Straus & Giroux, 192 pp., $22

The book is subtitled, with remarkable chutzpah, "What Lawyers Talk About When They Talk About Law," which suggests that somehow, despite the Simpson trial, Greta Van Susteren, Court TV, John Grisham,

Rob Long, a contributing editor of National Review, *is a writer-producer for television whose new series, "George and Leo," premieres on CBS this fall.*

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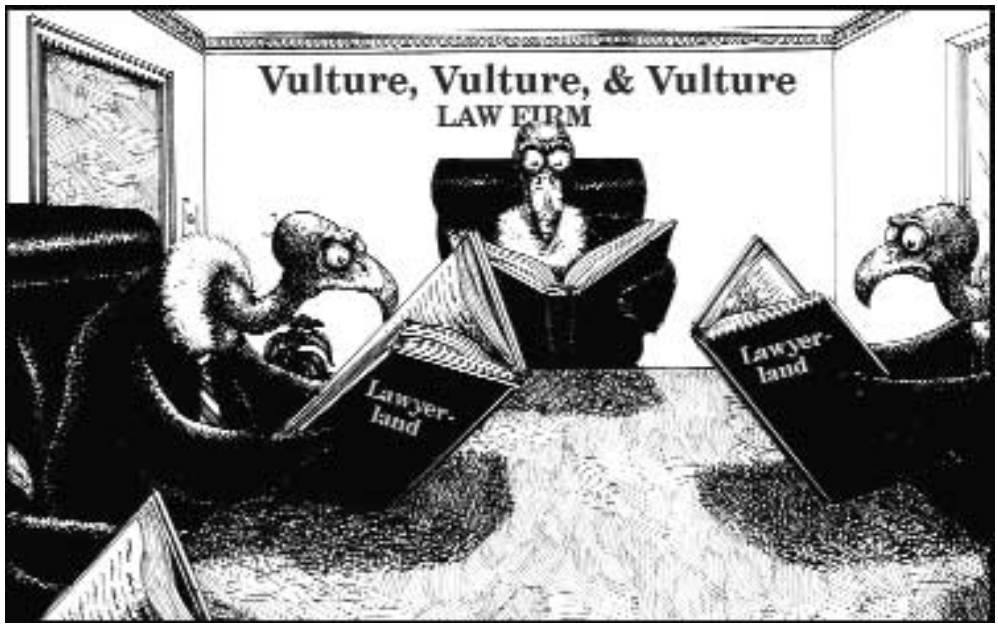

Sean Delonas

Joseph is a snappy writer, and his sense of pace is terrific—when a character gets boring or too intense he's hustled off stage and a new one is trotted on. And the cast of characters—a bitter black barrister, a sardonic female judge, a huckster corporate lawyer, a foul-mouthed criminal defense attorney—are good choices for this sort of thing, much better than the slim pickings available in, say, Washington, D.C. That *Lawyerland* would have been a very different book. It's hard to imagine anything juicy coming from, for example, an intellectual-property attorney, an environmental-rights lawyer, a former congressman, and a guy from the Natural Fibers Council. Joseph picked the right city—New York—and the right lawyers.

Jones v. *Clinton*, Anita Hill, the Menendez defense, *L.A. Law*, and Alan Dershowitz, we aren't getting an accurate picture of what lawyers talk about when they talk about law. Apparently, according to Joseph, they have a few more things they'd like to share.

Joseph has gathered a collection of characters—composites, he tells us, of real New York lawyers—who talk about their careers and the law in pretty much non-stop monologues, punctuated here and there by a bit of description or an interjection by the author. The book is "truthful rather than factual," Joseph declares in a note to the reader. "The names, circumstances, and characteristics of the persons and places portrayed have been changed," he writes, adding that "those readers who are also lawyers will especially appreciate why." As if it takes three years of law school to "especially appreciate" why you wouldn't want your *actual* name associated with this: "I don't remember having to watch myself all the time, the way I have to now. Take documents for example. You've got lawyers telling clients to destroy documents—they implicate their clients in the fraud. There are clients who want their lawyers to commit fraud, so the lawyers are in it with them. Billing. It's worse than ever. Maybe I shouldn't say worse."

Or this:

"What's a 'zoid?

"Short for sleazoids. Even the personal-injury 'zoids who make a hell of a lot more than we do hate our asses. We at least have clients who actually pay us. Can you imagine your livelihood depending on how brain-dead a brain-dead baby is? There's a term I heard the other day—a 'cancer misdiagnosis case.' 'Please, Lord, won't you send me a cancer misdiagnosis case!'"

Or this: "In the eighties, there'd be guys who'd bill whole days when they were out [with] call girls . . . everybody knew it, no one cared, there was so much money flying around."

Memo to self: Review next attorney's bill very carefully.

The anonymous quality, though, is what keeps the book moving along. Lawyers, when speaking for attribution, are remarkably pompous. Freely riffing, as they do here, on the law, justice, billing, and society in general, they sound a lot like the rest of us: profane, cynical, funny, incoherent.

But *Lawyerland*, for all its Mamet-style rat-a-tat dialogue and "tough guy" diction, is pretty pointless. It's not really about "what lawyers talk about when they talk about law"; it's about "what colorful New Yorkers talk about when they're trying to be colorful."

The book was sitting on my coffee table when a lawyer friend of mine dropped by. He picked up the book and scoffed. "Looks boring," he said. But he didn't put it down. He flipped through it for a few minutes, trying to keep up his end of our conversation, but getting distracted. "Mind if I borrow this?" he finally asked. "Go ahead," I said, knowing that "borrow," in the lawyer's lexicon, means "keep forever."

Lend *Lawyerland* to the Dersh in your life. It will take him three billable hours to read, and the price of the book is probably deductible. ♦

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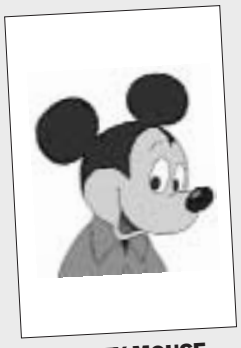
Joe Camel, a Giant in Tobacco Marketing, Is Dead at 23
—*New York Times*, July 11, 1997

Parody

MILESTONES

TONY THE TIGER

PAPA SMURF



MICKEY MOUSE

DIED. TONY THE TIGER, 47; of tooth decay; in Battle Creek, Mich. The cartoon character who seduced unsuspecting children into eating Sugar Frosted Flakes by roaring the words "It's Great!" into their ears was, in his heyday, perhaps not quite as famous as Mickey Mouse but certainly better known than Goofy. Dentists charge that he was responsible for at least 300,000 cavities every year and warn that sugared cereals are a notoious "gateway" to Twinkies, the foodstuff that poisoned Dan White and forced him to kill gay activist Harvey Milk in 1978.

DIED. PAPA SMURF, 11; of liver disease; in Antwerp, Belgium. Born "Papa Stroumpf," the grumpy cartoon character and head of the clan of little blue dwarves was twice as popular as Uncle Scrooge McDuck. Though a generation of children thrilled to his antics, children's television activists charge him with the murder of over 300,000 brain cells every half-hour.

DIED. MICKEY MOUSE, 70; of AIDS; in Orlando, Fla. The character who brought cartoon animation to maturity was almost as famous as Joe Camel. Though he flirted with Minnie Mouse, the two never wed, and Baptist critics charge him with confusing 300,000 children a year about their sexuality.

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